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COMPARISON
OF
PROPOSED NEW ARTICLES OF WAR
WITH THE
PRESENT ARTICLES OF WAR AND
OTHER RELATED STATUTES

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WASHINGTON
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1912



LETTERS OF TRANSMITTAL.

WAR DEPARTMENT,
Washington, April 19, 1912.

SIR: The Articles of War which now govern the conduct of the Army in time of peace and of war have not undergone comprehensive revision for more than a hundred years. The service conditions which these Articles of War are intended to regulate have greatly changed, and new and unforeseen conditions have arisen. As a result, experience has increasingly disclosed the inadaptability of the existing military code to present-day service conditions.

The necessity for a comprehensive revision of the code has long been apparent. Two such attempts at revision were commenced by this department, the first in 1888 and the other in 1903. The need for it has been so insistent that my predecessor, Secretary Dickinson, directed the present Judge Advocate General to undertake the labor of revision. This labor has been painstakingly prosecuted, and the results are herewith transmitted for your consideration as the basis of remedial legislation.

The accompanying letter from the Judge Advocate General to me, submitting his proposed revision, sets forth very clearly and concisely the theory of his undertaking and the details of the suggested changes. I deem it necessary, therefore, to invite your attention only to the following broad features of the project:

1. The revision was undertaken in the conservative spirit that legislative reforms should be evolutionary. In other words, that which successfully has withstood the test of experience should be retained, and changes and innovations should be limited to the wisdom of experience. As a matter of draftsmanship, it has been sought to build on established lines and to conform in general to settled administrative and judicial construction.

2. The existing articles are notoriously unsystematic and unscientific. Inevitably this condition hampers their easy and effective enforcement. A careful classification has been made; disassociated legislation in the new Articles of War has been incorporated therein, resulting in an analytical, precise, comprehensive, and easily enforceable code.

3. Experience has disclosed a very serious evil in the administration of military justice, owing to limitations of general courts-martial. But the service needs go beyond these liberalizing changes as to the constituency of general courts. As the Judge Advocate General convincingly shows, there is need of an intermediate disciplinary court to deal with that large proportion of cases midway between the grave offenses calling for dismissal, dishonorable discharge, or detention, to be disposed of by general court-martial, and the minor offenses calling for very light punishment, which are now dealt with by the summary courts. Under existing conditions there is necessarily delay and laxity in the administration of military justice, with the resulting impairment of efficiency. I regard the use of this intermediate disciplinary court of great importance and one that is bound to be productive of much good.

I have carefully studied in detail the proposed revision, and the reasons underlying the various proposals. The whole project has my hearty approval. I trust that it will meet with your approval, so

that you will urge its prompt enactment into law at the present session of Congress.

A similar request has this day been made of the chairman of the Military Committee of the Senate.

Very sincerely,

HENRY L. STIMSON,
Secretary of War.

Hon. JAMES HAY,
Chairman Military Committee, House of Representatives.

WAR DEPARTMENT,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, April 12, 1912.

The SECRETARY OF WAR.

SIR: I have the honor to submit herewith a project of revision of section 1342 of the Revised Statutes—the Articles of War—and to request that, in the form in which approved by you, it be transmitted to the Congress with a request for its enactment. The necessity for revision will be best understood by a preliminary reference to the history of the present articles.

Code of 1775.—Passing over the earlier enactments of the American Colonies of articles of war for the government of their respective contingents, of which we have examples in the articles adopted by the Provisional Congress of Massachusetts Bay, April 5, 1775 (American Archives, 4th series, vol. 1, p. 1350), followed by similar articles adopted in May and June of the same year, successively, by the Provincial Assemblies of Connecticut and Rhode Island and the Congress of New Hampshire (idem, vol. 2, pp. 565, 1153, 1180), we come to the first American articles—Code of 1775—enacted by the Second Continental Congress, June 30, 1775. Of this code, comprising 69 articles, the original was the existing British Code of 1774, from which said articles were largely copied. The code was amended by the Continental Congress on November 7, 1775, by adding thereto 16 provisions, intended to complete the original draft in certain particulars in which it was imperfect.

Code of 1776.—The Articles of 1775 were superseded the following year by what has since been known as the Code of 1776, enacted September 20 of that year. It was an enlargement, with modifications, of the amended Code of 1775. There followed the amendments of 1786, regulating the composition of courts-martial, and generally the administration of military justice. As thus amended the code survived the adoption of the Constitution of the United States, being continued in force by successive statutes, “so far as the same are applicable to the Constitution of the United States.” The necessity, however, for revision, in order to adapt the articles to the changed form of government, became obvious. This revision was accomplished by the act of April 10, 1806 (2 Stat., 259), which superseded all other enactments on the same subject, and is generally designated as the

Code of 1806.—The Code of 1806 comprised 101 articles, with an additional provision relating to the punishment of spies. There has been no formal revision of the Articles of War since that date, although there was such a restatement of them in the revision of the statutes of 1874 as was possible under the authority which the revisers who prepared that revision had to bring together “all statutes which, from similarity of subject, ought to be brought together, omitting redundant or obsolete enactments, and making such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text.” Under this limited authority no recasting of the articles or substantial amendment was possible, and the code as it appeared in the Revised Statutes of 1874,

and as it was repeated in the second edition thereof in 1878, was substantially the Code of 1806, expanded to embrace amendments and new legislation since that date. It embraced 128 articles, with the additional provision as to spies, and these, with the amendments enacted since 1878, constitute

The existing code.—It is thus accurate to say that during the long interval between 1806 and 1912—106 years—our military code has undergone no change, except that which has been accomplished by piecemeal amendment. Of the 101 articles which made up the Code of 1806, 87 survive in our present code unchanged, and most of the remainder without substantial change. Meantime the British code from which, as we have seen, these articles were largely taken has been, mainly through the medium of the Army annual act, revised almost out of recognition, indicating that the Government with which it originated has recognized its inadaptability to modern service conditions. These facts, together with the fact that very few penal codes of the States of the Union have remained substantially unamended for such a long period, suggest very strongly the propriety of revision, but they constitute, however, no conclusive argument in favor of revision, for it may well be urged that a code that has stood the test of experience for so many years, and has governed our Army during three foreign wars and one civil war, needs no material amendment or recasting. If, however, it is shown, as I think it can be, that the administration of military justice was seriously obstructed, even under the mild test afforded by the Spanish-American War, and continues to be obstructed under peace conditions, due to the retention in the code of provisions which, however well they may have served the purposes of the Army in the past, do not meet present conditions, or to the failure to enact new legislation, and that delays which impair the discipline and efficiency of the Army and which are easily avoidable result therefrom, the argument should not be considered controlling.

We entered upon our War with Spain, as upon our previous wars, relying upon the general court-martial for the trial of all offenses which could not be adequately punished within the limit of one month's confinement and forfeiture which inferior courts were authorized to adjudge.

Under the articles as they then existed and now exist this court is required to be composed of 13 officers, when that number can be assembled without manifest injury to the service, irrespective of the rank of the offender to be tried or the gravity of the offense charged against him. The authority to convene the general court-martial is vested in any general officer commanding an army, a territorial division or department, or a colonel commanding a separate department, in both peace and war. In war the authority to convene is vested also in commanders of tactical divisions and separate brigades. But when any of these convening authorities is the accuser or prosecutor of any person within his command, the court must be convened by the next higher authority in the case of a tactical division or separate brigade, and by the President in other cases. The authority to convene the general court-martial is thus quite a restricted one, and the utility of this court stands further impaired by the provision of these articles which prohibits officers of the Regular Army from sitting on courts-martial to try officers and soldiers of other forces, a provision which, because of the fact that regulars, volunteers, and militia in the service of the United States have been, as a rule, brigaded together, often prevents the prompt convening of courts and is attended with resulting delays in the administration of military justice.

Next below the general court stand the regimental and garrison courts, with jurisdiction, prior to March 2, 1901, to adjudge punishment within the limit of one month's confinement and forfeiture, and since that date within the limit of three months' confinement and forfeiture. Lowest in the judicial scale is the summary court created

by the act of October 1, 1890, with punishing power extending to one month's confinement and forfeiture, increased by the act of March 2, 1901, to three months' confinement and forfeiture upon the written consent of an accused to trial by such court. It is unnecessary in this connection to note the field officers' court (abolished by the act of June 18, 1898). It will be noted that the jurisdiction of the summary court, with the consent of an accused to trial thereby, is the full equivalent of the garrison and regimental courts, due to which fact the former has, since the enactment of the act of March 2, 1901, practically substituted the latter, except in a limited class of cases.

It is thus made to appear that between the general court-martial, with its unwieldy membership, formal procedure, and unlimited power of punishment, on the one hand, and the summary court of one officer, with its summary procedure and limited punishing power, on the other, there is a wide gap, which the garrison and regimental courts of three members, but with power to impose punishment not exceeding that which the summary court has with the consent of an accused, do not fill. The inadequacy of the garrison and regimental courts as intermediate courts between these two is revealed by the following table, which gives the statistics as to trial by the several classes of courts above named for the fiscal years 1910 and 1911.

Courts.	Number of trials.	
	1910	1911
General courts-martial.....	5,206	3,851
Garrison courts-martial.....	303	163
Regimental courts-martial.....	39	43
Summary courts-martial.....	42,275	38,082

Attempts have been made in the project of revision herewith submitted to remedy these evils as follows:

First, the requirement that the general court-martial must consist of 13 members when that number can be assembled without manifest injury to the service has been omitted. While it is now settled construction that this requirement is addressed to the discretion of the convening authority whose judgment as to the number of officers who may be assembled for duty upon a court-martial is not reviewable by any superior authority, still a reference to convening orders shows that the attempt is habitually made by convening authorities to secure the maximum number authorized by law, even in relatively unimportant cases—cases of a purely disciplinary character in which dishonorable discharge from the service is not contemplated or desired, and which a much smaller court could properly try. The result is a heavy draft on the time of the commissioned personnel of the Army. I am clearly of the opinion that we surrender no necessary safeguard in the administration of military justice when we leave the discretion of the convening authority unrestricted as to the number of officers between the authorized minimum of 5 and the authorized maximum of 13 which ought to be assembled for the trial of cases.

Second, the authority to convene general courts-martial has been extended so as to meet the following conditions: In the Spanish-American War, and in the Philippine insurrection which followed, it was found necessary to organize numerous expeditionary forces and forces of occupation, and send them to remote parts of the islands. Many of these forces approached but did not reach the full equivalent of a statutory brigade, due to which their commanding officers were without authority to convene general courts-martial. These are conditions which are liable to recur in any war in which the United States is likely to engage, and are therefore conditions for which provision should be made. Recently when, because of disturbed condi-

tions on our southern frontier, there were organized separate brigades at Galveston, Tex., and San Diego, Cal., and a maneuver division at San Antonio, Tex., the deficiencies of the existing articles were again revealed in the fact that they gave to the general officers commanding these units no authority to convene general courts-martial. Further, the authority of the Superintendent of the Military Academy to convene such courts is, by the articles, limited to the courts for the trial of cadets, and, although there are always stationed at the academy specially selected officers in all the grades available for detail on court-martial duty, the superintendent may not order a court for the trial of an officer or an enlisted man of his command. Article 8 of the project herewith preserves the authority to convene courts-martial to those who now have it, extends this authority to the commanders of divisions and separate brigades in time of peace, removes the restriction upon the authority of the Superintendent of the Military Academy to convene courts, and provides further that in case of brigade posts, expeditionary forces, and other forces not foreseen, the President may, when in his judgment necessary, specially empower the commanders of said brigade posts and of said forces to convene general courts-martial.

Third, the provision of existing articles making regular officers incompetent to sit on courts-martial for the trial of officers and soldiers of other forces has been modified so as to give accused officers and soldiers of other forces the right of peremptory challenge against regular officers detailed to sit on courts for their trial. The existing law (art. 77) assumes a disqualifying bias upon the part of all regular officers for such duty. So complete is the assumption that it is not necessary that the accused volunteer militiaman should even exercise the right of challenge in order to remove regular officers from duty upon a court convened to try him. The law itself disqualifies the regular officer, and the disqualification is not one which the accused can waive. This is the authoritative ruling of the Supreme Court, which has further held that this disqualifying bias which the statute assumes extends to regular officers holding volunteer commissions. Firm in the belief that the end sought to be attained by this law will be fully realized if the accused volunteer or militiaman is given the right of peremptory challenge against regular officers detailed upon general courts-martial for his trial, I have drafted new article 4 so as to accord him this right.

But to stop here would not afford the relief which service conditions demand. The wide gap between the general court and the summary court needs, I think, to be filled by an intermediate disciplinary court which will follow the Army under all conditions of its service, field or garrison, peace or war, with adequate power to impose disciplinary punishments, but without the power to adjudge dishonorable discharge. I am confirmed in this view by the report rendered by Capt. William E. Birkhimer, Acting Judge Advocate, First Division, Eighth Army Corps, under date of March 20, 1899. Capt. (since Gen.) Birkhimer is the author of our standard work on military government and martial law, and has had prolonged service in the legal department of the Army. Writing in that report with reference to conditions during the period of the Philippine insurrection, Capt. Birkhimer said:

I respectfully submit that active military operations develop an evil in the administration of military justice through the instrumentality of general courts-martial as now authorized that loudly calls for remedy. Reference is here made to the unwieldiness of general courts-martial, both as to constitution and methods of procedure. The practical result of this evil is that at such times it happens that grave offenses have, in many instances, immunity from prompt and adequate punishment. Charges too serious to properly be sent before a summary court are lodged against men, but because of the difficulties of bringing them to trial this is delayed until the cases are nearly or quite forgotten by those cognizant of the facts, and all that salutary disciplinary influence resulting from prompt trial is lost.

It will always be necessary to try the really graver charges by general courts-martial. This institution must therefore be preserved.

But between the cases that can appropriately be tried by summary court and those that must be referred for determination to general courts lie those that are much more numerous than the latter and for which a maximum punishment, say of six months' confinement and forfeiture of six months' pay would be adequate and proper. It is for the prompt trial of the last class of cases mentioned that a new court should, it is respectfully submitted, be authorized by law.

In articles 3, 6, 9, and 13 of the project herewith submitted an attempt has been made to create such a court as was recommended by Capt. Birkhimer. Its membership is to consist of from three to five officers, and it is given the authority to award punishment extending to six months' confinement and forfeiture and to proceed in the trial of cases without the formality of recording the evidence except when specially ordered so to do by the convening authority. As the court is intended to be primarily a disciplinary one it is placed by the proposed articles in the hands of those officers of our Army who are primarily responsible for discipline, viz, commanders of brigades, regiments, detached battalions, posts, camps, or other places where troops are on duty and the requisite number of officers may be obtained. The statistics of this office indicate that the court as thus organized ought to try approximately 40 per cent of the cases now tried by general courts-martial with the result that the time now consumed in these cases in forwarding charges to remote division headquarters and receiving them back approved for trial by general courts-martial and in sending to the same headquarters the completed proceedings of the trial for the action of the convening authority and in returning to the place of trial the orders publishing the sentence—often aggregating two months, and not infrequently exceeding three months—will be reduced to a period of two or three days.

The only argument against establishing such a court which is entitled to consideration is that it involves a delegation of disciplinary power to the court and reviewing authorities which it has not heretofore been deemed wise to make. I do not think that the argument has weight. The court and reviewing authorities will have the guidance of and be limited by the provisions of the maximum punishment order in adjudging and approving sentences. Further, the punishing power which is given it by statute, viz, six months' confinement and forfeiture, does not extend beyond limits of punishment which police court judges throughout our country frequently exceed in disposing of criminal cases where the accused waives trial by jury.

In the project of revision the special court substitutes the garrison and regimental courts, and the authorized courts, if the revision is enacted into law, will be: (1) The general court-martial, with its extended jurisdiction, to be resorted to in grave cases calling for dismissal, dishonorable discharge, or prolonged detention in confinement with or without dishonorable discharge; (2) the special court for the trial of cases where the end sought is the retention of the offender with his command to be disciplined; and (3) the summary court for the trial of minor offenses calling for light punishments of confinement and forfeiture.

The provision of the existing law that the summary court shall not adjudge confinement at hard labor or forfeiture of pay, or both, for a period exceeding one month, except upon the consent of the accused to trial by such court, has been omitted. It is not believed that jurisdiction should ever depend upon the consent of an accused, but the omission of the provision is called for by other considerations. Experience in administering the law as it now stands shows that only the worst characters avail themselves of this provision, in whose hands it becomes a weapon with which to obstruct the administration of military justice. Its omission for this reason alone would be justified. In lieu of the omitted provision a proviso has been inserted (see Art. 14) that when the summary court officer is also the approving officer no sentence adjudging punishment in excess of one month's confinement and forfeiture shall be executed until approved by superior authority. This, it is believed, is a sufficient safeguard,

The limits assignable to a letter of transmittal of this character would be exceeded by an extended review of all the changes provided for in the project of revision herewith submitted. For this reason I limit myself to the brief summary which follows of the more important changes sought to be made.

1. The existing articles are notably deficient in arrangement and classification. In the project herewith related provisions have been brought together under five principal headings and where subheads would serve a purpose they have been employed. A complete classification is thus presented in a manner that will facilitate study and understanding of the code.

2. Provisions of the Revised Statutes and of acts of Congress in the nature of Articles of War, but not heretofore incorporated therein, have in the project been transferred thereto. Articles 2, 4, 7, 8, 10, 14, 22, 24, 31, 35, 37, 46, 48, 49, 50, 52, 54, 79, 80, 82, 106, 108, and 114 embody such provisions. This codification will make it easier to find the law touching any particular question and thus facilitate prompt and correct administration.

3. At present, in order to determine what persons in addition to officers and soldiers are subject to military law, it is necessary to examine scattered provisions of the Articles of War, the Revised Statutes, and acts of Congress, and supplement the information thus obtained by reference to the decisions of civil courts and the opinions of law officers of the Government. An effort has been made to eliminate the major portion of this difficulty by setting forth in article 2 of the project a list of persons subject to military law.

4. Articles 1, 10, 11, 12, 29, 30, 36, 37, 53, 76, 87, and 101 of the existing code have been omitted. Some of these articles have never met any real need in our service and may for all practical purposes be regarded as obsolete; others embrace only matters properly within the field of Army Regulations.

5. Provisions relating to the same subject matter have been brought together in single articles so far as practicable. Notable instances of the application of this rule may be found in article 48 of the project, which contains the substance of four articles of the existing code and of one section of the Revised Statutes, all of which have reference to the confirmation of sentences; and in article 60 of the project, which states the substance of six existing articles relating to unauthorized absences.

6. Under the existing code larceny, robbery, burglary, arson, mayhem, manslaughter, and certain aggravated assaults are triable in time of war as violations of the fifty-eighth article of war, and at other times as violations of the sixty-second article of war—a fact that is productive of confusion, uncertainty, and delay, especially at the outbreak of hostilities. This objectionable feature has been eliminated by making the offenses noted above triable under one and the same article, both in time of peace and in time of war (see art. 93 of the project).

7. Under the existing code (see arts. 58 and 62) a person subject to military law may, in time of war, be tried by court-martial for murder or rape, but may not be so tried in time of peace. This state of the law makes it necessary to resort to a “provisional court” under conditions similar to those which existed in Cuba during the recent intervention. The fifty-eighth article of war was enacted at a time when the territorial jurisdiction of the United States did not extend beyond the geographical limits of what now constitutes the States of the Union and the District of Columbia. At that time conditions now existing as the result of the extension of the territorial jurisdiction of the United States were not in contemplation, or the fifty-eighth article would probably have taken a somewhat different form. In the project the article relating to murder and rape—article 92—has been drawn so as to preclude trial by court-martial for those offenses when committed within the geographical limits of the States

of the Union and the District of Columbia in time of peace, while conferring jurisdiction for the trial of these offenses when committed in time of war or beyond the geographical limits just indicated. The penalty for the offenses in question is fixed in conformity with the provisions of sections 275, 278, and 330 of the act of March 4, 1909 (35 Stat., 1143, 1152).

8. Our first statute of limitations upon prosecutions before courts-martial was article 88 of the Code of 1806, which is now the initial paragraph of article 103. The second paragraph of that article was added by the act of April 11, 1890 (26 Stat., 54). In its original form the article was vague in its provisions. The effect of absence or of “manifest impediment” upon the running of the statute was not very clear; and the time when the statute began to run, or whether the article was applicable at all to prosecutions for desertion, did not clearly appear. The amendment of 1890 (second paragraph) determined that the period during which a deserter was absent from the United States was to be excluded in computing the two-year limitation in case of desertion in time of peace. But the existing article, as a whole, leaves it as a matter of doubt whether desertion in time of war is or is not covered by the article. The correctness of the present official construction, that desertion in time of war is not covered, is open to serious doubt, and the necessity for amendment in this regard is therefore obvious. In the corresponding article in the project—article 40—desertion in time of war is excepted from the limitation, this being in accord with the official construction of the existing article. The changes introduced are mainly for the purpose of conforming more closely to the limitation prescribed by law in respect of criminal prosecutions in the courts of the United States. The extensive jurisdiction now exercised by courts-martial in respect of civil crimes and offenses committed by persons subject to military law, and which is retained in the project for revision, makes it desirable that the limitation upon prosecutions before courts-martial be substantially the same as the limitation upon prosecutions before civil courts of criminal jurisdiction. The period now prescribed is, perhaps, sufficient for all practical purposes, so far as enlisted men are concerned; but under present service conditions, it is quite possible for the entire two-year period of limitation to elapse after a financial transaction by an officer before the fact that the transaction was criminal in character is disclosed or becomes sufficiently apparent to warrant the filing and reference of charges for trial. It is therefore believed to be essential to extend the period of limitation to three years. The force of the latter consideration and the consequent advisability of the proposed extension became apparent in a recent case of financial irregularity on the part of an officer, in which case it was necessary to resort to the civil courts of criminal jurisdiction, because trial by court-martial was barred by the military statute of limitations.

9. It is difficult to extract from articles 122 and 124, as now in force, a workable rule concerning the rank and precedence of officers, when officers of the Regular Establishment, of the Militia, and of Volunteers are concerned. In the corresponding articles of the project—articles 118 and 119—an attempt has been made to state clearly a definite practicable rule.

10. Under the present ninety-first article of war depositions of witnesses residing beyond the limits of the State, Territory, or District in which a court-martial is in session may be read in evidence before such court in cases not capital, the constitutional rule respecting the personal attendance of witnesses before the court being inoperative in cases triable by courts-martial. The existing rule respecting depositions is, however, unsatisfactory in that it authorizes the use of a deposition when the witness resides just outside the State in which the court is in session, though perhaps only a few miles from the place of session, but does not permit the use of a deposition when the witness resides within the State, even though his place of residence may be

three or four hundred miles from the place of session. Furthermore, the existing article makes no provision for the taking of a deposition when the witness, by reason of age, sickness, bodily infirmity, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing. In the corresponding article in the project (art. 25) these deficiencies in the existing article have been supplied, the new article being drawn so as to conform in the main to the provisions of section 863 of the Revised Statutes.

11. Article 96, as now in force, provides that "no person shall be *sentenced* to suffer death except by the concurrence of two-thirds of the members of a general court-martial." The article, however, leaves it open to a bare majority of the court to find the accused guilty of an offense for which the death sentence is mandatory, so that the article does not, as a matter of fact, furnish any special protection to the accused in a case of this kind, in view of the obvious duty the court has to impose the sentence required by law upon a legal conviction. The corresponding article in the project (art. 44) has been drawn so as to require the concurrence of two-thirds of the members of the court in order to convict an accused person of an offense for which the death penalty is made mandatory by law and also to require the concurrence of two-thirds of the members of the court in passing sentence of death in any case.

The foregoing list of changes is by no means complete, as there has been a general recasting of the articles, but it embraces the more important changes to which it is desirable to invite your especial attention and that of Congress in considering the feasibility of enacting the proposed revision; but the complete recasting of the articles has not extended to changing language which might be considered defective in form, but to which settled construction has assigned a definite meaning. The effort has been made to invalidate as little as possible of the construction which the existing articles have received administratively and by the courts.

Very respectfully,

E. H. CROWDER,
Judge Advocate General.

H. R. 23628

BEING A PROJECT FOR THE REVISION
OF THE ARTICLES OF WAR

PROPOSED ARTICLES OF WAR

- I. PRELIMINARY PROVISIONS
 - II. COURTS-MARTIAL
 - III. PUNITIVE ARTICLES
 - IV. COURTS OF INQUIRY
 - V. MISCELLANEOUS PROVISIONS
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PROPOSED ARTICLES OF WAR.

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Art. 9. Special courts-martial.

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Art. 37. Disposition of records—special and summary courts-martial.

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Art. 77. Forcing a safeguard.

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Art. 79. Dealing in captured or abandoned property.

Art. 80. Introducing goods into enemy territory.

Art. 81. Relieving, corresponding with, or aiding the enemy.

Art. 82. Spies.

(f) Miscellaneous crimes and offenses—

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(f) *Miscellaneous crimes and offenses*--Continued.

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- Art. 87. Personal interest in sale of provisions..
- Art. 88. Intimidation of persons bringing provisions.
- Art. 89. Good order to be maintained and wrongs redressed.
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- Art. 115. Powers of assistant judge advocates.
- Art. 116. Removal of civil suits.
- Art. 117. Officers, separation from service.
- Art. 118. Rank and precedence among regulars, militia, and volunteers.
- Art. 119. Command when different corps or commands happen to join.

62D CONGRESS,
2D SESSION.

H. R. 23628.

IN THE HOUSE OF REPRESENTATIVES.

APRIL 22, 1912.

Mr. HAY introduced the following bill; which was referred to the Committee on Military Affairs and ordered to be printed.

A BILL

To amend section thirteen hundred and forty-two of the Revised Statutes of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section thirteen hundred and forty-two of the Revised
4 Statutes of the United States be, and the same is hereby,
5 amended to read as follows:

6 "SEC. 1342. The articles included in this section shall
7 be known as the Articles of War and shall, at all times and
8 in all places, govern the Armies of the United States, in-
9 cluding all persons belonging thereto and all persons now or
10 hereafter made subject to military law.

PRESENT ARTICLES OF WAR AND OTHER RELATED STATUTES.

The Armies of the United States shall be governed by the following rules and articles. * * * (Sec. 1342, R. S.)

1 “ I. PRELIMINARY PROVISIONS.

2 “ART. 1. DEFINITIONS.- The following words when
3 used in these articles shall be construed in the sense indicated
4 in this article, unless the context shows that a different sense
5 is intended, namely:

6 "(a) The word 'officer' shall be construed to refer to
7 a commissioned officer;

8 "(b) The word 'soldier' shall be construed as includ-
9 ing a noncommissioned officer, a private, or any other en-
10 listed man;

11 "(c) The word 'company' shall be understood as in-
12 eluding a troop or battery; and

13 "(d) The word 'battalion' shall be understood as in-
14 eluding a squadron.

15 “ART. 2. PERSONS SUBJECT TO MILITARY LAW.- The
16 following persons are subject to these articles, and shall be.
17 understood as included in the term ‘any person subject to
18 military law’ or ‘persons subject to military law’ whenever
19 used in these articles:

20 "(a) All officers and soldiers belonging to the Armies
21 of the United States, including Regulars, militia called into
22 the service of the United States, and Volunteers;

23 "(b) Cadets, veterinarians of Cavalry and Field Ar-
24 tillery, and Army paymasters’ clerks;

The Armies of the United States shall be governed by the following rules and articles. The word “officer,” as used therein, shall be Understood to designate commissioned officers; the word "soldier" shall be understood to include non-commissioned officers, musicians, artificers, privates, and other enlisted men; and the convictions mentioned therein shall be understood to be convictions by court-martial. (Sec. 1342, R. S.)

ART. 64 The officers and soldiers of any troops, whether militia or others, mustered and in pay of the United States, shall, at all times and in all places, be governed by the Articles of War, and shall be subject to be tried by courts-martial.

That Army paymasters’ clerks shall be subject to the rules and Articles of War. (Act of Mar. 3, 1911; 36 Stat., 1044.)

"(c) Officers and soldiers of the Marine Corps when detached for service with the Armies of the United States by order of the President;

"(d) In time of war all retainers to the camp and all persons accompanying or serving with the Armies of the United States in the field though not otherwise subject to these articles;

"(e) All persons under sentence adjudged by courts-martial; and

"(f) All persons now or hereafter declared by law to constitute a part of or to belong to the Armies of the United States or to be subject to the Articles of War or to trial by courts-martial.

"II. COURTS-MARTIAL.

"ART. 3. COURTS-MARTIAL CLASSIFIED.-COURTS-martial shall be of three kinds, namely:

"First. General courts-martial;

"Second. Special courts-martial; and

"Third. Summary courts-martial.

"A. COMPOSITION.

"ART. 4. WHO MAY SERVE ON COURTS-MARTIAL.-Officers of the Regular Army, of the militia when called into the service of the United States, of the Volunteer Army, and of the Marine Corps when detached for service with the Army by order of the President, shall be competent to

ARTICLES OF WAR AND RELATED STATUTES.

ART. 78. Officers of the Marine Corps, detached for service with the Army by order of the President, may be associated with officers of the Regular Army on courts-martial for the trial of offenders belonging to the Regular Army, or to forces of the Marine Corps so detached; and in such cases the orders of the senior officer of either corps who may be present and duly authorized shall be obeyed.

ART. 63. All retainers to the camp, and all persons serving with the armies of the United States in the field, though not enlisted soldiers, are to be subject to orders, according to the rules and discipline of war.

That soldiers sentenced by court-martial to dishonorable discharge and confinement shall, until discharged from such confinement, remain subject to the Articles of War and other laws relating to the administration of military justice. (Sec. 5, act of June 18, 1898; 30 Stat., 484.)

ART. 60. * * * And if any person, being guilty of any of the offenses aforesaid [frauds against the Government], while in the military service of the United States, receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial, in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

ART. 78. Officers of the Marine Corps, detached for service with the Army by order of the President, may be associated with officers of the Regular Army on courts-martial for the trial of offenders belonging to the Regular Army, or to forces of the Marine Corps so detached;

ART. 77. Officers of the Regular Army shall not be competent to sit on courts-martial to try the officers or soldiers of other forces, except as provided in article 78.

That the majority membership of courts-martial for the trial of officers or men of the militia when in the service of the United States shall be composed of militia officers. (Sec. 8, act of Jan. 21, 1903; 35 Stat., 401.)

1 serve on courts-martial for the trial of any person who may
 2 lawfully be brought before such courts for trial; but officers
 3 of the Regular Army or of the Marine Corps shall not,
 4 against the objection of the accused, be competent to sit
 5 on general or special courts-martial for the trial of officers or
 6 soldiers of forces other than the Regular Army or the Marine
 7 Corps.

8 "ART. 5. GENERAL COURTS - MARTIAL.--General
 9 courts-martial may consist of any number of officers from
 10 five to thirteen, inclusive.

11 "ART. 6. SPECIAL COURTS-MARTIAL.-Special courts-
 12 martial may consist of any number of officers from three to
 13 five, inclusive.

14 "ART. 7. SUMMARY COURTS-MARTIAL.-A summary
 15 court-martial shall consist of one officer.

16 "B. BY WHOM APPOINTED.

17 "ART. 8. GENERAL COURTS-MARTIAL.-The Presi-
 18 dent of the United States, the commanding officer of a terri-
 19 torial division or department, the superintendent of the Mili-
 20 tary Academy, the commanding officer of an Army, a field
 21 Army, an Army corps, a division, or a separate brigade, and
 22 when empowered by the President, the commanding officer
 23 of any district or of any force or body of troops, may appoint
 24 general courts-martial whenever necessary but when any
 25 such commander is the accuser or the prosecutor of the per-

ART. 75. General courts-martial may consist of any number of officers from five to thirteen, inclusive; but they shall not consist of less than thirteen when that number can be convened without manifest injury to the service.

ART. 81. Every officer commanding a regiment or corps shall, subject to the provisions of article 80, be competent to appoint, for his own regiment or corps, courts-martial, consisting of three officers, to try offenses not capital.

ART. 82. Every officer commanding a garrison, fort, or other place where the troops consist of different corps, shall, subject to the provisions of article 80, be competent to appoint, for such garrison or other place, courts-martial, consisting of three officers, to try offenses not capital.

That the commanding officer of each garrison, fort, or other place, regiment or corps, detached battalion or company, or other detachment in the Army, shall have power to appoint for such place or command, or in his discretion for each battalion thereof, a summary court to consist of one officer to be designated by him, * * * (Sec. 1, act of June 18, 1898; 30 Stat., 483.)

ART. 72. Any general officer commanding an army, a territorial division, or a department, or colonel commanding a separate department may appoint general courts-martial whenever necessary. But when any such commander is the accuser or prosecutor of any officer under his command the court shall be appointed by the President; and its proceedings and sentence shall be sent directly to the Secretary of War, by whom they shall be laid before the President, for his approval or orders in the case.

ART. 73. In time of war the commander of a division, or of a separate brigade of troops, shall be competent to appoint a general court-martial. But when such commander is the accuser or prosecutor of any person under his command, the court shall be appointed by the next higher commander.

The superintendent of the Military Academy shall have power to convene general courts-martial for the trial of cadets and to execute the sentences of such courts, except the sentences of suspension and dismissal, subject to the same limitations and conditions now existing as to other general courts-martial. (Sec. 1326, R. S.)

son or persons to be tried the court shall be appointed by superior competent authority.

“ART. 9. SPECIAL COURTS - MARTIAL.- The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable.

“ART. 10. SUMMARY COURTS-MARTIAL.--The commanding officer of a garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or other detachment may appoint summary courts-martial for his command; but such summary courts-martial may in any case be appointed by superior authority when by the latter deemed desirable: *Provided*, That when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him.

“ART. 11. APPOINTMENT OF JUDGE ADVOCATES.- For each general or special court-martial the authority appointing the court shall appoint a judge advocate, and for

ART. 81. Every officer commanding a regiment or corps shall, subject to the provisions of article 80, be competent to appoint, for his own regiment or corps, courts-martial, consisting of three officers, to try offenses not capital.

ART. 82. Every officer commanding a garrison, fort, or other place where the troops consist of different corps, shall, subject to the provisions of article 80, be competent to appoint, for such garrison or other place, courts-martial, consisting of three officers, to try offenses not capital.

That the commanding officer of each garrison, fort, or other place, regiment or corps, detached battalion, or company, or other detachment in the Army, shall have power to appoint for such place or command, or in his discretion for each battalion thereof, a summary court to consist of one officer to be designated by him, * * * but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; * * * *Provided*, That when but one commissioned officer is present with a command he shall hear and finally determine such cases: * * *. (Sec. 1, act of June 18, 1898; 30 Stat., 483.)

ART. 74. Officers who may appoint a court-martial shall be competent to appoint a judge advocate for the same.

1 each general court-martial one or more assistant judge advo-
 2 cates when necessary.

3 C. JURISDICTION.

4 "ART. 12. GENERAL COURTS - MARTIAL. —General
 5 courts-martial shall have power to try any person subject to
 6 military law for any crime or offense made punishable by
 7 these articles and any other person who by statute or by the
 8 law of war is subject to trial by military tribunals.

9 "ART. 13. SPECIAL COURTS-MARTIAL-Special courts-
 10 martial shall have power to try any person subject to military
 11 law, except an officer, for any crime or offense not capital
 12 made punishable by these articles: *Provided*, That the Presi-
 13 dent may by regulations, which he may modify from time to
 14 time, except from the jurisdiction of special courts-martial
 15 any class or classes of persons subject to military law.

16 "Special courts-martial shall have power to adjudge
 17 punishment not to exceed confinement at hard labor for six
 18 months or forfeiture of six months' pay, or both, and in addi-
 19 tion thereto reduction to the ranks in the cases of noncom-
 20 missioned officers, and reduction in classification in the cases
 21 of first-class privates.

ART. 81. Every officer commanding a regiment or corps shall, subject to the provisions of article 80, be competent to appoint, for his own regiment or corps, courts-martial, consisting of three officers, to try offenses not capital.

ART. 82. Every officer commanding a garrison, fort, or other place where the troops consist of different corps, shall, subject to the provisions of article 80, be competent to appoint, for such garrison or other place, courts-martial, consisting of three officers, to try offenses not capital.

ART. 83. Regimental and garrison courts-martial and summary courts detailed under existing laws to try enlisted men shall not have power to try capital cases or commissioned officers, but shall have power to award punishment not to exceed confinement at hard labor for three months, or forfeiture of three months' pay, or both; and in addition thereto, in the case of noncommissioned officers, reduction to the ranks, and in the case of first-class privates reduction to second-class privates: *Provided*, That a summary court shall not adjudge confinement and forfeiture in excess of a period of one month, unless the accused shall before trial consent in writing to trial by said court; but in any case of refusal to so consent the trial may be had either by general, regimental, or garrison court-martial, or by said summary court; but in case of trial by said summary court, without consent as aforesaid, the court shall not adjudge confinement or forfeiture of pay for more than one month.

- 22 “ART. 14. SUMMARY COURTS-MARTIAL. -Summary
 23 courts-martial shall have power to try any soldier, except one
 24 who is holding the privileges of a certificate of eligibility to
 25 promotion, for any crime or offense not capital made punish-

ARTICLES OF WAR AND RELATED STATUTES.

That the commanding officer of each garrison, fort, or other place, regiment or company, detached battalion, or company, or other detachment in the Army, shall have power to appoint for such place or command, or in his discretion for each battalion thereof, a summary court to consist of one officer to be designated by him, before whom enlisted men who are to be tried for offenses, such as were prior to the passage of the act “to promote the administration of justice in the Army,” approved October first, eighteen hundred and ninety cognizable by garrison or regimental courts-martial, and offenses cognizable by field officers detailed to try offenders under the provisions of the eightieth and one hundred and tenth articles of war, shall be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable, except when the accused is to be tried by general court-martial; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not exceed confinement at hard labor for one month and forfeiture of one month’s pay, and, in the case of a non-commissioned officer, reduction to the ranks in addition thereto; * * * *Provided*, That when but one commissioned officer is present with a command he shall hear and finally determine such cases: *And provided further*, That no one while holding the privileges of a certificate of eligibility to promotion shall be brought before a summary court, and that noncommissioned officers shall not, if they object thereto, be brought to trial before summary courts without the authority of the officer competent to order their trial by general court-martial, but shall in such cases be brought to trial before garrison, regimental, or general courts-martial, as the case may be. (Sec. 1, act of June 18, 1898; 30 Stat., 483.)

NOTE.—See also old articles 81, 82, and 83 opposite new article 13.

1 able by these articles: *Provided*, That noncommissioned
 2 officers shall not, if they object thereto, be brought to trial
 3 before a summary court-martial without the authority of the
 4 officer competent to bring them to trial before a general
 5 court-martial.

6 "Summary courts-martial shall have power to adjudge
 7 punishment not to exceed confinement at hard labor for
 8 three months or forfeiture of three months' pay, or both, and
 9 in addition thereto reduction to the ranks in the cases of non-
 10 commissioned officers and reduction in classification in the
 11 cases of first-class privates: *Provided*, That when the sum-
 12 mary court officer is also the commanding officer no sentence
 13 of such summary court-martial adjudging confinement at
 14 hard labor or forfeiture of pay, or both, for a period in excess
 15 of one month shall be carried into execution, until the same
 16 shall have been approved by superior authority.

17 "ART. 15. . NOT EXCLUSIVE.- The provisions of these
 18 articles conferring jurisdiction upon courts-martial shall not
 19 be construed as depriving military commissions, provost.
 20 courts, or other military tribunals of concurrent jurisdiction
 21 in respect of offenders or offenses that by statute or by the
 22 law of war may be triable by such military commissions,
 23 provost courts, or other military tribunals.

24 "ART.16. OFFICERS, HOW TRIABLE.- Officers shall be
 25 tried only by general courts-martial, and no officer shall,

ART. 79. Officers shall be tried only by general courts-martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

1 when it can be avoided, be tried by officers inferior to him in
2 rank.

3 “D. PROCEDURE.

4 “ART. 17. JUDGE ADVOCATE TO PROSECUTE.—The
5 judge advocate of a general or special court-martial shall pros-
6 ecute in the name of the United States, and shall, under the
7 direction of the court, prepare the record of its proceedings;
8 but should the accused be unrepresented by counsel, the
9 judge advocate will from time to time throughout the pro-
10 ceedings advise the accused of his legal rights.

11 “ART. 18. CHALLENGES.—Members of a general or
12 special court-martial may be challenged by the accused and
13 by the judge advocate, but only for cause stated to the court.
14 The court shall determine the relevancy and validity thereof,
15 and shall not receive a challenge to more than one member
16 at a time.

17 “ART. 19. OATH OF MEMBERS AND JUDGE ADVO-
18 CATES.—The judge advocate of a general or special court-
19 martial shall administer to the members of the court, before
20 they proceed upon any trial, the following oath or affirmation:
21 ‘You, A. B., do swear (or affirm) that you will well and truly
22 try and determine, according to the evidence, the matter
23 now before you, between the United States of America and
24 the person to be tried, and that you will duly administer
25 justice, without partiality, favor, or affection, according to

ART. 90. The judge advocate, or some person deputed by him or by the general or officer commanding the Army, detachment, or garrison, shall prosecute in the name of the United States; but when the prisoner has made his plea he shall so far consider himself counsel for the prisoner as to object to any leading question to any of the witnesses, and to any question to, the prisoner the answer to which might tend to criminate himself.

ART. 88. Members of a court-martial may be challenged by a prisoner, but only for cause stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time.

ART. 84. The judge advocate shall administer to each member of the court, before they proceed upon any trial, the following oath, which shall also be taken by all members of regimental and garrison courts-martial: “You, A B, do swear that you will well and truly try and determine, according to evidence, the matter now before you, between the United States of America and the prisoner to be tried, and that you will duly administer justice, without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the armies of the United States, and if any doubts should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases; and you do further swear that you will not divulge the sentence of the court until it shall be published by the proper authority, except to the judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help you God.”

ART. 85. When the oath has been administered to the members of a court-martial the president of the court shall administer to the judge-advocate, or person officiating as such, an oath in the following form: “You, A B, do swear that you will not disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law; nor divulge the sentence of the court to any but the proper authority until it shall be duly disclosed by the same. So help you God.”

1 the provisions of the rules and articles for the government
 2 of the armies of the United States, and if any doubt should
 3 arise, not explained by said articles, then according to your
 4 conscience, the best of your understanding, and the custom
 5 of war in like cases; and you do further swear (or affirm)
 6 that you will not divulge the findings or sentence of the court
 7 until they shall be published by the proper authority, except
 8 to the judge advocate and assistant judge advocate; neither
 9 will you disclose or discover the vote or opinion of any par-
 10 ticular member of the court-martial, unless required to give
 11 evidence thereof as a witness by a court of justice in due
 12 course of law. So help you God.'

13 "When the oath or affirmation has been administered
 14 to the members of a general or special court-martial, the
 15 president of the court shall administer to the judge advocate
 16 and to each assistant judge advocate, if any, an oath or af-
 17 firmation in the following form: 'You, A. B., do swear (or
 18 affirm) that you will not divulge the findings or sentence of
 19 the court to any but the proper authority until they shall be
 20 duly disclosed by the same, So help you God.'

21 "In case of affirmation, the closing sentence of adju-
 22 ration will be omitted.

23 "ART. 20. CONTINUANCES.- A court-martial shall,
 24 for reasonable cause, grant a continuance to either party for
 25 such time and as often as may appear to be just.

ART. 93. A court-martial shall, for reasonable cause grant a constinuanee to
 either party, for such time and as often as may appear to be just: *Provided,*
 That if the prisoner be in close confinement the trial shall not be delayed for a
 period longer than sixty days.

ART. 21. REFUSAL TO PLEAD.-When the accused, arraigned before a court-martial, from obstinacy and deliberate design, stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if he had pleaded not guilty.

"ART. 22. PROCESS TO OBTAIN WITNESSES.-Every judge advocate of a general or special court-martial and every summary court-martial, shall have power to issue the like process to compel witnesses to appear and testify which courts of the United States having criminal jurisdiction may lawfully issue.

"ART. 23. OATH OF WITNESSES- All persons who give evidence before a court-martial shall be examined on oath or affirmation in the following form: 'You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God.'

"In case of affirmation the closing sentence of adjuration will be omitted.

"ART. 24. REFUSAL TO APPEAL OR TESTIFY.- Every person not belonging to the Army of the United States who, being duly subpoenaed to appear as a witness before a court-martial, or before an officer, military or civil, designated to take a deposition to be read in evidence before a court-martial, willfully neglects or refuses to appear or refuses to qualify as

ARTICLES OF WAR AND RELATED STATUTES.

ART. 89. When a prisoner, arraigned before a court-martial, from obstinacy and deliberate design, stands mute, or answers foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had pleaded not guilty.

Every judge advocate of a court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within the State, Territory, or District where such military courts shall be ordered to sit may lawfully issue. (Sec. 1202, R. S.)

ART. 92. All persons who give evidence before a court-martial shall be examined on oath, or affirmation, in the following form: "You swear (or affirm) that the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

That every person not belonging to the Army of the United States who, being duly subpoenaed to appear as a witness before a general court-martial of the Army, willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in the district court of the United States; and it shall be the duty of the United States district attorney, on the certification of the facts to him by the general court-martial, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than five hundred dollars or imprisonment not to exceed six months, or both, at the discretion of the court: *Provided*, That this shall not apply to persons residing beyond the State, Territory, or district in which such general court-martial is held, and that the fees of such witness, and his mileage at

1 a witness or to testify or produce documentary evidence which
 2 such person may have been legally subpoenaed to produce,
 3 shall be deemed guilty of a misdemeanor, for which such per-
 4 son shall be punished on information in the District Court of
 5 the United States; and it shall be the duty of the United
 6 States district attorney, on the certification of the facts to him
 7 by the court-martial, to file an information against and prose-
 8 cute the person so offending, and the punishment of such per-
 9 son on conviction shall be a fine of not more than five hundred
 10 dollars or imprisonment not to exceed six months, or both, at
 11 the discretion of the court: *Provided*, That the fees of such
 12 witness and his mileage, at the rates allowed to witnesses
 13 attending the courts of the United States, shall be duly paid
 14 or tendered said witness, such amounts to be paid by the pay
 15 department of the Army out of the appropriation for the com-
 16 pensation of witnesses: *And provided further*, That no wit-
 17 ness shall be compelled to incriminate himself or to answer
 18 any questions which may tend to incriminate or degrade him.

19 "ART. 25. DEPOSTIONS--WHEN ADMISSIBLE.- A
 20 duly authenticated deposition taken upon reasonable notice
 21 to the opposite party may be read in evidence before any
 22 court-martial or military commission in any case not capital,
 23 or in any proceeding before a court of inquiry or a military
 24 board, if such deposition be taken when the witness resides,
 25 is found, or is about to go beyond the State, Territory, or

ARTICLES OF WAR AND RELATED STATUTES.

the rates provided for witnesses in the United States district court for said State, Territory, or district shall be duly paid or tendered said witness, such amounts to be paid by the Pay Department of the Army out of the appropriation for compensation of witnesses: *Provided*, That no witness shall be compelled to incriminate himself or to answer any questions which may tend to incriminate or degrade him. (Sec. 1, act of Mar. 2, 1901; 31 Stat., 950.)

ART. 91. The depositions of witnesses residing beyond the limits of the State, Territory, or district in which any military court may be ordered to sit, if taken on reasonable notice to the opposite party and duly authenticated, may be read in evidence before such court in cases not capital.

1 district in which the court, commission, or board is ordered
 2 to sit, or beyond the distance of one hundred miles from
 3 the place of trial or hearing, or when it appears to the satis-
 4 faction of the court, commission, board, or appointing au-
 5 thority that the witness, by reason of age, sickness, bodily
 6 infirmity, imprisonment, or other reasonable cause, is unable
 7 to appear and testify in person at the place of trial or hearing.

8 ⁶⁶ ART. 26. DEPOSITIONS —BEFORE WHOM TAKEN.—
 9 Depositions to be read in evidence before courts-martial, mili-
 10 tary commissions, courts of inquiry, or military boards: or for
 11 other use in military administration, may be taken before and
 12 authenticated by any officer, military or civil, authorized
 13 by the laws of the United States or by the laws of the place
 14 where the deposition is taken to administer oaths.

15 "ART.27. COURTS OF INQUIRY-RECORDS WHEN AD-
 16 MISSIBLE.-The record of the proceedings of a court of
 17 inquiry may be admitted as evidence by a court-martial in
 18 cases not capital nor extending to the dismissal of an officer:
 19 *Provided*, That the circumstances are such that oral testi-
 20 mony can not be obtained.

21 "ART.28. RESIGNATION WITHOUT ACCEPTANCE
 22 DOES NOT RELEASE OFFICER.-Any officer who, having
 23 tendered his resignation and prior to due notice of the ac-
 24 ceptance of the same, quits his post or proper duties without

ART. 121. The proceedings of a court of inquiry may be admitted as evidence by a court-martial in cases not capital nor extending to the dismissal of an officer: *Provided*, That the circumstances are such that oral testimony can not be obtained.

ART. 49. Any officer who, having tendered his resignation, quits his post or proper duties, without leave, and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of the same, shall be deemed and punished as a deserter.

1 leave and with intent to absent himself permanently there-
2 from shall be deemed a deserter.

3 "ART. 29. ENLISTMENT WITHOUT DISCHARGE.--Any
4 soldier who quits the organization to which he properly be-
5 longs and, without having first received a regular discharge
6 from such organization, enlists in or joins any other organiza-
7 tion of the Army, or militia when in the service of the
8 United States, or the Navy, or Marine Corps of the United
9 States, shall be deemed to have deserted from the former
10 and to have fraudulently enlisted in the latter organization.

11 "ART. 30. OATH OF REPORTERS AND INTERPRETERS. —
12 Every reporter of the proceedings of a court-martial shall,
13 before entering upon his duties, make oath or affirmation
14 in the following form: 'You swear (or affirm) that you will
15 faithfully perform the duties of reporter to this court. 'So
16 help you, God.'

17 "And every interpreter in the trial of any case before
18 a court-martial shall, before entering upon his duties, make
19 oath or affirmation in the following form: 'You swear
20 (or affirm) that you will truly interpret in the case now in
21 hearing. So help you, God.'

22 "In case of affirmation the closing of sentence of ad-
23 juration will be omitted.

24 "ART. 31. CLOSED SESSIONS.- Whenever a general or
25 special court-martial shall sit in closed session, the judge
26 advocate, and the assistant judge advocate, if any, shall

ART. 50. No noncommissioned officer or soldier shall enlist himself in any other regiment, troop, or company without a regular discharge from the regiment, troop, or company in which he last served, on a penalty of being reputed a deserter, and suffering accordingly. And in case any officer shall knowingly receive and entertain such noncommissioned officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him and give notice thereof to the corps in which he last served, the said officer shall, by a court-martial, be cashiered.

That whenever a court-martial shall sit in closed session the judge advocate shall withdraw, and when his legal advice or his assistance in referring to recorded evidence is required, it shall be obtained in open court. (Sec. 2, act of July 27, 1892; 27 Stat., 278.)

1 withdraw; and when their legal advice, or their assistance
 2 in referring to the recorded evidence is required, it shall be
 3 obtained in open court.

4 "ART.32 ORDER OF VOTING.--Members of a general
 5 'or special court-martial, in giving their votes, shall begin
 6 with the junior in rank.

7 "ART. 33. CONTEMPTS - A court-martial may punish,
 8 at discretion, any person who uses any menacing words,
 9 signs, or gestures in its presence, or who disturbs its pro-
 10 ceedings by any riot or disorder.

11 "ART. 34. RECORDS—GENERAL COURTS-MARTIAL—
 12 Each general court-martial shall keep a separate record of
 13 its proceedings in the trial of each case brought before it,
 14 and such record shall be authenticated by the signature of
 15 the president and the judge advocate; but in case the record
 16 can not be authenticated by the judge advocate, by reason
 17 of his death, disability, or absence, it shall be signed by the
 18 president and an assistant judge advocate, if any; and if
 19 there be no assistant judge advocate, or in case of his death,
 20 disability, or absence, then by the president and one other
 21 member of the court.

22 "ART. 35. RECORDS—SPECIAL AND SUMMARY
 23 COURTS-MARTIAL—Each special court-martial and each
 24 summary court-martial shall keep an accurate record of its
 25 proceedings, separate for each case, which record shall con-

ART. 95. Members of a court-martial, in giving their votes, shall begin with the youngest in commission.

ART. 86. The court-martial may punish, at discretion, any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceedings by any riot or disorder.

* * *; that there shall be a summary court record kept at each military post and in the field at the headquarters of the proper command, in which shall be entered a record of all cases heard and determined and the action had thereon; * * *. (Sec. 1, act of June 18, 1898; 30 Stat., 483.)

tain such matter and be authenticated in such manner as may
be required by regulations which the President may from
time to time prescribe.

“ART. 36. DISPOSITION OF RECORDS-GENERAL
COURTS-MARTIAL.—The judge advocate of each general
court-martial shall, with such expedition as circumstances,
may permit, forward to the appointing authority, or to his
successor in command, the original record of the proceedings
of such court in the trial of each case. All records of such
proceedings shall, after having been finally acted upon, be
transmitted to the Judge Advocate General of the Army.

“ART. 37. DISPOSITION OF RECORDS—SPECIAL AND
SUMMARY COURTS-MARTIAL.— After having been acted
upon by the officer appointing the court or by the officer
commanding for the time being, the record of each trial by
special or summary court-martial shall be transmitted to such
general headquarters as the President may designate in
regulations, there to be filed in the office of the judge advo-
cate for a period of three years, at the end of which time
such records may be destroyed.

“ART. 38. PRESIDENT MAY PRESCRIBE RULES.— The
President may by regulations, which he may modify from
time to time, prescribe the mode of proof in cases before
courts-martial, court's of inquiry, military commissions, and
other military tribunals, and their procedure : *Provided*, That

ART. 113. Every judge advocate, or person acting as such, at any general
court-martial shall, with such expedition as the opportunity of time and distance
of place may admit, forward the original proceedings and sentence of such court-
to the Judge Advocate General of the Army, in whose office they shall be caret
fully preserved.

* * * That hereafter the records of regimental, garrison, and field offi-
cers and courts-martial shall, after having been acted upon, be retained and filed
in the judge advocate's office at the headquarters of the department commander
in whose department the courts were held for two years, at the end of which time
they may be destroyed. (Act of Mar. 3, 1877; 19 Stat., 310.)

That there shall be a summary-court record kept at each military
post and in the field at the headquarters of the proper command, in which shall
be entered a record of all cases heard and determined and the action had thereon;
(Sec. 1, act of June 18, 1898; 30 Stat., 483.)

That post and other commanders shall, in time of peace, on the last day of
each month, make a report to the department headquarters of the number of
cases determined by summary court during the month, setting forth the offenses
committed and the penalties awarded, which report shall be filed in the office of
the judge advocate of the department, and may be destroyed when no longer of
use. (Sec. 4, act of June 18, 1898; 30 Stat., 484.)

The mode of proof in causes of equity and of admiralty and maritime juris-
diction shall be according to rules now or hereafter prescribed by the Supreme
Court, except as herein specially provided. (Sec. 862, R. S.)

1 nothing contrary to or inconsistent with these articles shall
2 be so prescribed.

3 "ART. 39. IRREGULARITIES—EFFECT OF.—No charges
4 referred to a court-martial shall be deemed insufficient, nor
5 shall the trial or sentence or other proceedings thereon be
6 affected by reason of any defect or imperfection in matters
7 of form only, or by reason of the offense having been charged
8 under one article when technically chargeable under another,
9 unless it shall appear that such irregularities have operated
10 to the prejudice of the accused: *Provided*, That the act or
11 omission charged constitutes an offense denounced and made
12 punishable by one or more of these articles.

13 "E. LIMITATIONS UPON PROSECUTIONS.

14 "ART. 40, AS TO TIME.—No person shall be liable to
15 be tried by a court-martial for any crime or offense, except
16 desertion committed in time of war, or murder, which ap-
17 pears to have been committed more than three years before
18 the beginning of the prosecution of such person for such
19 crime or offense: *Provided*, That the period of any absence
20 of the accused from the jurisdiction of the United States,
21 and also any 'period during which, by reason of some mani-
22 fest impediment, the accused may not have been amenable
23 to military justice shall be excluded in computing the afore-
24 said period of three years: *Provided further*, That in case
25 of desertion committed in time of peace no part of the period

No indictment found and presented by a grand jury in any district or circuit or other court of the United States shall be deemed insufficient, nor shall the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form only, which shall not tend to the prejudice of the defendant. (Sec. 1025, R. S.)

ART. 103. No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than two years before the issuing of the order for such trial, unless, by reason of having absented himself or of some other manifest impediment, he shall not have been amenable to justice within that period.

No person shall be tried or punished by a court-martial for desertion in time of peace and not in the face of an enemy committed more than two years before the arraignment of such person for such offense, unless he shall meanwhile have absented himself from the United States, in which case the time of his absence shall be excluded in computing the period of the limitation: *Provided*, That said limitation shall not begin until the end of the term for which said person was mustered into the service.

1 for which the soldier was enlisted or mustered into the service
 2 shall be counted as a part of the aforesaid period of three
 3 years: *And provided further*, That the prosecution shall be
 4 held to have been begun when the charges shall have been
 5 duly received at the headquarters of an authority competent
 6 to appoint a court-martial for the trial of charges alleging the
 7 commission of the crime or offense in question.

8 "ART. 41. "AS TO NUMBER.- No person shall be tried
 9 a second time for the same offense.

10 " F . P U N I S H M E N T S .

11 "ART. 42. CERTAIN KINDS PROHIBITED. - Punishment
 12 by flogging, or by branding, marking, or tattooing on the
 13 body is prohibited.

14 "ART. 43. PENITENTIARY SENTENCES--WHEN LAW-
 15 FUL.- No person shall, under sentence of a court-martial, be
 16 punished by confinement in a penitentiary, unless the crime
 17 or offense of which he may be convicted would, under some
 18 statute of the United States or under some law of the State,
 19 Territory, District, or other jurisdiction in which the crime
 20 or offense may be committed, render such person liable
 21 to confinement in a penitentiary; but when a sentence of
 22 confinement is adjudged by a court-martial upon conviction
 23 of two or more acts or omissions, any one of which, under
 24 the statute or other law hereinbefore mentioned, constitutes

ART. 102. No person shall be tried a second time for the same offense.

ART. 98. No person in the military service shall be punished by flogging, or by branding, marking, or tattooing on the body.

ART. 97. No person in the military service shall, under the sentence of a court-martial, be punished by confinement in a penitentiary, unless the offense of which he may be convicted would, by some statute of the United States, or by some statute of the State, Territory, or District in which such offense may be committed, or by the common law, as the same exists in such State, Territory, or District, subject such convict to such punishment.

1 or includes a crime or offense punishable by confinement
 2 in a penitentiary, the entire sentence of confinement imposed
 3 by the court-martial may be executed in a penitentiary.

4 “ART. 44. DEATH SENTENCES--WHEN LAWFUL.—
 5 No person shall, by general court-martial, be convicted of an
 6 offense for which the death penalty is made mandatory by
 7 law, nor sentenced to suffer death, except by the concurrence
 8 of two-thirds of the members present, and for an offense in
 9 these articles expressly made punishable by death. All other
 10 convictions and sentences, whether by general or special
 11 court-martial, may be determined by a majority of the mem-
 12 bers present.

13 “ART. 45. COWARDICE; FRAUD—ACCESSORY PEN-
 14 ALTY.—When an officer is dismissed from the service for
 15 cowardice or fraud, the crime, punishment, name, and place
 16 of abode of the delinquent shall be published in the news-
 17 papers in and about the camp, and in the State from which
 18 the offender came, or where he usually resides; and after such
 19 publication it shall be scandalous for an officer to associate
 20 with him.

21 “ART. 46. MAXIMUM LIMITS.—Whenever the pun-
 22 ishment for a crime or offense made punishable by these
 23 articles is left to the discretion of the court-martial, the pun-
 24 ishment shall not, in time of peace, exceed such limit or
 25 limits as the President may from time to time prescribe.

ART. 96. No person shall be sentenced to suffer death, except by the concurrence of two-thirds of the members of a general court-martial, and in the cases herein expressly mentioned.

ART. 100. When an officer is dismissed from the service for cowardice or fraud, the sentence shall further direct that the crime, punishment, name, and place of abode of the delinquent shall be published in the newspapers in and about the camp, and in the State from which the offender came, or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him.

That whenever by any of the Articles of War for the government of the Army the punishment on conviction of any military offense is left to the discretion of the court-martial the punishment therefor shall not, in time of peace, be in excess of a limit which the President may prescribe. (Act of Sept. 27, 1890; 26 Stat., 491.)

1 "G. ACTION BY APOINTING OR SUPERIOR AUTHORITY.

2 "ART. 47. APPROVAL AND EXECUTION OF SEN-

3 TENCES.- No sentence of a court-martial shall be carried into

4 execution until the same shall have been approved by the

5 officer appointing the court or by the officer commanding for

6 the time being. The execution of any sentence thus ap-

7 proved may be ordered by the officer approving the same or

8 by the officer commanding for the time being, unless con-

9 firmation by superior authority is required by these articles.

10 "ART. 48. CONFIRMATION — WHEN REQUIRED.- Con-

11 firmation by the President is required in the following cases

12 before the sentence of a court-martial is carried into execu-

13 tion, viz:

14 "(a) Any sentence respecting a general officer;

15 "(b) Any sentence extending to the dismissal of an

16 officer, except that in time of war a sentence extending to the

17 dismissal of an officer below the grade of brigadier general

18 may be carried into execution upon confirmation by the com-

19 manding general of the Army in the field or by the com-

20 manding general of the territorial department or division;

21 "(c) Any sentence extending to the suspension or dis-

22 missal of a cadet; and

23 "(d) Any sentence of death, except in the cases of

24 persons convicted in time of war of murder, rape, mutiny,

25 desertion, or as spies; and in such excepted cases a sentence

ARTICLES OF WAR AND RELATED STATUTES.

ART. 104. No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer ordering the court, or by the officer commanding for the time being.

ART. 109. All sentences of a court-martial may be confirmed and carried into execution by the officer ordering the court, or by the officer commanding for the time being, where confirmation by the President, or by the commanding general in the field, or commander of the department, is not required by these articles.

ART. 108. No sentence of a court-martial, either in time of peace or in time of war, respecting a general officer shall be carried into execution until it shall have been confirmed by the President.

ART. 106. In time of peace no sentence of a court-martial directing the dismissal of an officer shall be carried into execution until it shall have been confirmed by the President.

ART. 107. No sentence of a court-martial appointed by the commander of a division or of a separate brigade of troops directing the dismissal of an officer shall be carried into execution until it shall have been confirmed by the general commanding the army in the field to which the division or brigade belongs.

The Superintendent of the Military Academy shall have power to convene general courts-martial for the trial of cadets, and to execute the sentences of such courts, except the sentences of suspension and dismissal, subject to the same limitations and conditions now existing as to other general courts-martial. (Sec. 1326, R. S.)

ART. 105. No sentence of a court-martial inflicting the punishment of death shall be carried into execution until it shall have been confirmed by the President, except in the cases of persons convicted, in time of war, as spies, mutineers, deserters, or murderers, and in the cases of guerrilla marauders convicted, in time of war, of robbery, burglary, arson, rape, assault with intent to commit rape, or of violation of the laws and customs of war; and in such excepted cases the sentence of death may be carried into execution upon confirmation by the commanding general in the field or the commander of the department, as the case may be.

1 of death may be carried into execution upon confirmation
 2 by the commanding general of the Army in the field or by
 3 the commanding general of the territorial department or
 4 division.

5 "ART. 49. POWERS INCIDENT TO POWER TO APPROVE
 6 OR CONFIRM.- The power to approve or confirm the sen-
 7 tence of a court-martial shall be held to include, inter alia:

8 "(a) The power to approve, confirm, or disapprove
 9 a finding, and to approve or confirm so much only of a find-
 10 ing of guilty of a particular offense as involves a finding of
 11 guilty of a lesser included offense, when, in the opinion of
 12 the authority having power to approve or confirm, the evi-
 13 dence of record requires a finding of only the lesser degree
 14 of guilt;

15 "(b) The power to change the sequence in which a
 16 sentence as adjudged by the court may require the execution
 17 of the punishments of dishonorable discharge and confine-
 18 ment; and

19 "(c) The power to mitigate or remit, at the time of
 20 approval or confirmation, the whole or any part of a sen-
 21 tence: *Provided*, That the power to mitigate or remit a
 22 sentence at the time of approval or confirmation shall be
 23 exercised only by the authority having power to order the
 24 execution of the sentence: *And provided further*, That this

ART. 112. Every officer who is authorized to order a general court-martial shall have power to pardon or mitigate any punishment adjudged by it except the punishment of death or of dismissal of an officer. Every officer commanding a regiment or garrison in which a regimental or garrison court-martial may be held shall have power to pardon or mitigate any punishment which such court may adjudge.

That the commanding officers authorized to approve the sentences of summary courts and superior authority shall have power to remit or mitigate the same. (Sec. 3, act of June 18, 1898; 30 Stat., 484.)

1 paragraph shall not be construed as conferring upon any
 2 authority inferior to the President the power to mitigate or
 3 remit a sentence of dismissal of an officer or a sentence of
 4 death.

5 “ART. 50. PERMISSION OR MITIGATION AFTER AP-
 6 PROVAL OR CONFIRMATION.--subsequent to the approval
 7 of confirmation of a sentence adjudged by a court-martial,
 8 any unexecuted portion of such sentence may be mitigated
 9 or remitted by the authority competent to appoint, for
 10 the command in which the person under sentence is held, a
 11 court of the kind that imposed the sentence; and the same
 12 power may be exercised by superior authority: *Provided*,
 13 That no sentence extending to the dismissal of an officer, no
 14 sentence of death, and no sentence approved or confirmed
 15 by the President shall be remitted or mitigated by any
 16 other authority.

17 “ART. 51. SUSPENSION OF SENTENCES OF DISMISSAL
 18 OR DEATH.- Any officer who has authority to order the exe-
 19 cution of a sentence of dismissal of an officer or a sentence
 20 of death may suspend such sentence until the pleasure of
 21 the President be known; and in case of such suspension a
 22 copy of the order of suspension, together with a copy of
 23 the record of trial, shall immediately be transmitted to the
 24 President.

ART. 112. Every officer who is authorized to order a general court-martial shall have power to pardon or mitigate any punishment adjudged by it except the punishment of death or of dismissal of an officer, Every officer commanding a regiment or garrison in which a regimental or garrison court-martial may be held shall have power to pardon or mitigate any punishment which such court may adjudge.

That the commanding officers authorized to approve the sentences of summary courts and superior authority shall have power to remit or mitigate the same. (Sec. 3, act of June 18, 1898; 30 Stat., 484.)

ART. 111. Any officer who has authority to carry into execution the sentence of death or of dismissal of an officer may suspend the same until the pleasure of the President shall be known; and, in such case, he shall immediately transmit to the President a copy of the order of suspension, together with a copy of the proceedings of the court.

" III. PUNITIVE ARTICLES.

"A. ENLISTMENT; MUSTER; RETURNS.

"ART. 52. FRAUDULENT ENLISTMENT.- Any person who shall procure himself to be enlisted in the military service of the United States by means of willful misrepresentation or concealment as to his qualifications for enlistment, and shall receive pay or allowances under such enlistment, shall be punished as a court-martial may direct.

"ART. 53. OFFICER MAKING UNLAWFUL ENLISTMENT.- Any officer who knowingly enlists or musters into the military service any person whose enlistment or muster in is prohibited by law shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

"ART. 54. MILITIA OFFICER OR SOLDIER NOT REPORTING FOR MUSTER.— Any officer or enlisted man of the militia who shall refuse or neglect to present himself for muster upon being called forth into the service of the United States, according to the provisions of law then in force, shall be subject to trial by court-martial and shall be punished as such court-martial may direct.

"ART. 55. FALSE MUSTER .- Any officer who knowingly makes a false muster of man or animal, or who signs or directs or allows the signing of any muster roll, knowing the same to contain a false muster or false statement as to the absence or pay of an officer or soldier; or who takes

ARTICLES OF WAR AND RELATED STATUTES,

That fraudulent enlistment, and the receipt of any pay or allowance thereunder, if hereby declared a military offense and made punishable by court-martial, under the sixty-second article of war. (Sec. 3, act of July 27, 1892; 27 Stat., 278.)

ART. 3. Every officer who knowingly enlists or musters into the military service any minor over the age of sixteen years without the written consent of his parents or guardian, or any minor under the age of sixteen years, or any insane or intoxicated persons, or any deserter from the military or naval service of the United States, or any person who has been convicted of any infamous criminal offense, shall, upon conviction, be dismissed from the service, or suffer such other punishment as a court-martial may direct.

That every officer and enlisted man of the militia who shall be called forth in the manner hereinbefore prescribed, shall be mustered for service without further enlistment, and without further medical examination previous to such muster, except for those States and Territories which have not adopted the standard of medical examination prescribed for the Regular Army: *Provided, however,* That any officer or enlisted man of the militia who shall refuse or neglect to present himself for such muster, upon being called forth as herein prescribed shall be subject to trial by court-martial and shall be punished as such court-martial may direct. (Sec. 7, act of Jan. 21, 1903; 35 Stat., 401.)

ART. 5. Any officer who knowingly musters as a soldier a person who is not a soldier shall be deemed guilty of knowingly making a false muster and punished accordingly.

ART. 6. Any officer who takes money, or other thing, by way of gratification, on mustering any regiment, troop, battery, or company, or on signing muster rolls, shall be dismissed from the service, and shall thereby be disabled to hold any office or employment in the service of the United States.

1 money or other consideration on mustering in a regiment,
 2 company, or other organization, or on signing muster rolls;
 3 or who knowingly musters as an officer or soldier a person
 4 who is not such officer or soldier, shall be dismissed from the
 5 service and suffer such other punishment as a court-martial
 6 may direct.

7 "ART. 56. FALSE RETURNS; OMISSION TO RENDER

8 RETURNS.—Every officer whose duty it is to render to the
 9 War Department or other superior authority a return of the
 10 state of the troops under his command, or of the arms, am-
 11 munition, clothing, funds, or other property thereunto belong-
 12 ing, who knowingly makes a false return thereof, shall be
 13 dismissed the service and suffer such other punishment
 14 as a court-martial may direct. And any officer who through
 15 neglect or design omits to render such returns shall be pun-
 16 ished as a court-martial may direct.

17 "B. DESERTION; ABSENCE WITHOUT LEAVE.

18 "ART. 57. DESERTION.-- Any person subject to mili-
 19 tary law who deserts or attempts to desert the service of the
 20 United States shall, if the offense be committed in time of
 21 war or when under orders for active service when war is
 22 imminent, suffer death or such other punishment as a court-
 23 martial may direct, and, if the offense be committed at any
 24 other time, any punishment, excepting death, that a court-
 25 martial may direct.

ARTICLES OF WAR AND RELATED STATUTES.

ART. 13. Every officer who signs a false certificate relating to the absence or pay of an officer or soldier, shall be dismissed from the service.

ART. 14. Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall, upon proof thereof, by two witnesses, before a court-martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment in the service of the United States.

ART. 7. Every officer commanding a regiment, an independent troop battery, or company, or a garrison, shall, in the beginning of every month, transmit through the proper channels, to the Department of War, an exact return of the same, specifying the names of the officers then absent from their posts, with the reasons for and the time of their absence. And any officer who, through neglect or design, omits to send such returns, shall, on conviction thereof, be punished as a court-martial may direct.

ART. 8. Every officer who knowingly makes a false return to the Department of War, or to any of his superior officers authorized to call for such returns, of the state of the regiment, troop or company, or garrison under his command, or of the arms, ammunition, clothing, or other stores thereunto belonging, shall, on conviction thereof before a court-martial, be cashiered.

ART. 47. Any officer or soldier who, having received pay, or having been duly enlisted in the service of the United States, deserts the same, shall, in time of war, suffer death, or such other punishment as a court-martial may direct; and in time of peace, any punishment, excepting death, which a court-martial may direct.

1 "ART. 58 ADVISING OR AIDING ANOTHER TO DE-
 2 SERT.--Any person subject to military law who advises or
 3 persuades or knowingly assists another to desert the service
 4 of the United States shall, if the offense be committed in
 5 time of war, suffer death or such other punishment as a
 6 court-martial may direct, and if committed in time of peace
 7 any punishment, except death, that a court-martial may
 8 direct.

9 "ART. 59. ENTERTAINING A DESERTER. -- Any officer
 10 who after having discovered that a soldier in his command is a
 11 deserter from the military or naval service or from the Marine
 12 Corps, retains such deserter in his command without inform-
 13 ing superior authority or the commander of the organization
 14 to which the deserter belongs, shall be punished as the court-
 15 martial may direct.

16 "ART. 60. ABSENCE WITHOUT LEAVE.- Any person
 17 subject to military law who fails to repair at the fixed time
 18 to the properly appointed place of duty or goes from the
 19 same without proper leave, or absents himself from his com-
 20 mand, guard, quarters, station, or camp without proper leave,
 21 shall be punished as a court-martial may direct.

ARTICLES OF WAR AND RELATED STATUTES.

ART. 51. Any officer or soldier who advises or persuades any other officer or soldier to desert the service of the United States, shall, in time of war, suffer death or such other punishment as a court-martial may direct; and in time of peace any punishment, excepting death, which a court-martial may direct.

ART. 50. No noncommissioned officer or soldier shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company in which he last served, on a penalty of being reputed a deserter, and suffering accordingly. And in case any officer shall knowingly receive and entertain such noncommissioned officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him and give notice thereof to the corps in which he last served, the said officer shall, by a court-martial, be cashiered.

ART. 31. Any officer or soldier who lies out of his quarters, garrison, or camp, without leave from his superior officer, shall be punished as a court-martial may direct.

ART. 32. Any soldier who absents himself from his troop, battery, company, or detachment, without leave from his commanding officer, shall be punished as a court-martial may direct.

ART. 33. Any officer or soldier who fails, except when prevented by sickness or other necessity, to repair, at the fixed time, to the place of parade, exercise, or other rendezvous appointed by his commanding officer, or goes from the same, without leave from his commanding officer, before he is dismissed or relieved, shall be punished as a court-martial may direct.

ART. 34. Any soldier who is found one mile from camp, without leave in writing from his commanding officer, shall be punished as a court-martial may direct.

ART. 35. Any soldier who fails to retire to his quarters or tent at the beating of retreat shall be punished according to the nature of his offense.

ART. 40. Any officer or soldier who quits his guard, platoon, or division without leave from his superior officer, except in a case of urgent necessity, shall be punished as a court-martial may direct.

- 22 "C.DISRESPECT; INSUBORDINATION; MUTINY.
- 23 "ART. 61. DISRESPECT TOWARD THE PRESIDENT,
- 24 VICE PRESIDENT, CONGRESS, SECRETARY OF WAR, GOV-
- 25 ERNORS, LEGISLATURES.- Any officer who uses contemptu-

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ART. 19. Any officer who uses contemptuous or disrespectful words against the President, the Vice President, the Congress of the United States,, or the chief magistrate or legislature of any of the United States in which he is quartered, shall be dismissed from the service, or otherwise punished as a court-martial may direct. Any soldier who so offends shall be punished as a court-martial may direct.

1 ous or disrespectful words against the President, Vice Presi-
 2 dent, the Congress of the United States, the Secretary of
 3 War, or the chief magistrate or legislature of any State, Ter-
 4 ritory, or other possession of the United States in which he
 5 is quartered, shall be dismissed from the service, or suffer
 6 such other punishment as a court-martial may direct. Any
 7 soldier who so offends shall be punished as a court-martial
 8 may direct.

9 “ART. 62. DISRESPECT TOWARD SUPERIOR OFFI-
 10 CER.-Any person subject to military law who behaves him-
 11 self with disrespect toward his superior officer shall be pun-
 12 ished as a court-martial may direct.

13 “ART. 63. ASSAULTING OR WILLFULLY DISOBEYING
 14 SUPERIOR OFFICER.-Any person subject to military law
 15 who, on any pretense whatsoever, strikes his superior officer,
 16 or draws or lifts up any weapon, or offers any violence
 17 against him, being in the execution of his office, or willfully
 18 disobeys any lawful command of his superior officer, shall
 19 suffer death or such other punishment as a court-martial may
 20 direct.

21 “ART. 64. INSUBORDINATE CONDUCT TOWARD NON-
 22 COMMISSIONED OFFICER.-Any soldier who strikes or as-
 23 saults, or attempts or threatens to strike or assault, or will-
 24 fully disobeys the lawful order of a noncommissioned officer

ART. 20. Any officer or soldier who behaves himself with disrespect toward his commanding officer shall be punished as a court-martial may direct.

ART. 21. Any officer or soldier who, on any pretense whatsoever, strikes his superior officer, or draws or lifts up any weapon, or offers any violence against him, being in the execution of his office, or disobeys any lawful command of his superior officer, shall suffer death, or such other punishment as a court-martial may direct.

1 while in the execution of his office, or uses threatening or in-
 2 sulting language or behaves in an insubordinate or disre-
 3 spectful manner toward a noncommissioned officer while in
 4 the execution of his office, shall be punished as a court-
 5 martial may direct.

6 “ART. 65. MUTINY OR SEDITION.— Any person sub-
 7 ject to military law who attempts to create or who begins,
 8 excites, causes, or joins in any mutiny or sedition in any
 9 company, party, post, camp, detachment, guard, or other
 10 command, shall suffer death or such other punishment as a
 11 court-martial may direct.

12 “ART. 66. FAILURE TO SUPPRESS MUTINY OR SEDI-
 13 TION.—Any officer or soldier who, being present at any
 14 mutiny or sedition, does not use his utmost endeavor to sup-
 15 press the same, or knowing or having reason to believe that
 16 a mutiny or sedition is to take place, does not, without delay,
 17 give information thereof to his commanding officer, shall
 18 suffer death or such other punishment as a court-martial
 19 may direct.

20 “ART. 67. QUARRELS ; FRAYS ; DISORDERS. - All offi-
 21 cers and noncommissioned officers have power to part and
 22 quell all quarrels, frays, and disorders among persons subject
 23 to military law, and to order officers who take part in the
 24 same into arrest, and other persons subject to military law
 25 who take part in the same into arrest or confinement, as cir-

ART. 22. Any officer or soldier who begins, excites, causes, or joins in any mutiny or sedition, in any troop, battery, company, party, post, detachment, or guard shall suffer death, or such other punishment as a court-martial may direct.

ART. 23. Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or, having knowledge of any intended mutiny or sedition, does not, without delay, give information thereof to his commanding officer, shall suffer death, or such other punishment as a court-martial may direct.

ART. 24. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, whether among persons belonging to his own or to another corps, regiment, troop, battery, or company, and to order officers into arrest, and noncommissioned officers and soldiers into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or noncommissioned officer, or draws a weapon upon him, shall be punished as a court-martial may direct.

1 cumstances may require, until their proper superior officer
 2 is acquainted therewith. And whosoever, being so ordered,
 3 refuses to obey such officer or noncommissioned officer, or
 4 draws a weapon upon or otherwise threatens or does violence
 5 to him, shall be punished as a court-martial may direct.

6 “D. ARREST; CONFINEMENT.

7 “ART. 68. ARREST OR CONFINEMENT OF ACCUSED
 8 PERSONS. — An officer charged with crime or with a serious
 9 offense under these articles shall be placed in arrest by the
 10 commanding officer, and in exceptional cases an officer so
 11 charged may be placed in confinement by the same authority.
 12 A soldier charged with crime or with a serious offense under
 13 these articles shall be placed in confinement, and when
 14 charged with a minor offense he may be placed in arrest.
 15 Any person subject to military law, except an officer or a
 16 soldier, charged with crime or with a serious offense under
 17 these articles shall be placed in confinement or in arrest, as
 18 circumstances may require; and when charged with a minor
 19 offense such person may be placed in arrest. Any person
 20 placed in arrest under the provisions of this article shall
 21 thereby be restricted to his barracks, quarters, or tent unless
 22 such limits shall be enlarged by proper authority. Any offi-
 23 cer who breaks his arrest or who escapes from confinement
 24 before he is set at liberty by proper authority shall be dis-
 25 missed from the service or suffer such other punishment as

ART. 65. Officers charged with crime shall be arrested and confined in their barracks, quarters, or tents, and deprived of their swords by the commanding officer. And any officer who leaves his confinement before he is set at liberty by his commanding officer shall be dismissed from the service.

ART. 66. Soldiers charged with crimes shall be confined until tried by court-martial, or released by proper authority.

1 a court-martial may direct; and any person subject to mili-
 2 tary law, except an officer, who escapes from confinement
 3 or who breaks his arrest before he is set at liberty by proper
 4 authority shall be punished as a court-martial may direct.

5 "ART. 69. INVESTIGATION OF AND ACTION UPON
 6 CHARGES.--The charge against any person placed in arrest
 7 or confinement shall be investigated promptly by the com-
 8 manding officer or other proper military authority, and
 9 immediate steps shall be taken to try and punish the person
 10 accused or to dismiss the charges against him and release
 11 him from arrest or confinement. Any officer whose duty
 12 it is to make such investigation or to take such steps who
 13 willfully or negligently fails to do so promptly and any officer
 14 who is responsible, for unreasonable or unnecessary delay in
 15 carrying the case to a final conclusion shall be punished as
 16 the court-martial may direct.

17 "ART. 70. REFUSAL TO RECEIVE AND KEEP PRIS-
 18 ONERS.- No provost marshal or commander of a guard shall
 19 refuse to receive or keep any prisoner committed to his
 20 charge by an officer belonging to the forces of the United
 21 States, provided the officer committing shall, at the time,
 22 deliver an account in writing, signed by himself, of the crime
 23 or offense charged against the prisoner. Any officer or
 24 soldier so refusing shall be punished as a court-martial may
 25 direct.

ART. 70. No officer or soldier put in arrest shall be continued in confine-
 ment more than eight days, or until such time as a court-martial can be
 assembled.

ART. 71. When an officer is put in arrest for the purpose of trial, except
 at remote military posts or stations, the officer by whose order he is arrested
 shall see that a copy of the charges on which he is to be tried is served u on
 him within eight days after his arrest, and that he is brought to trial within
 ten days thereafter, unless the necessities of the service prevent such trial;
 and then he shall be brought to trial within thirty days after the expiration of
 said ten days. If a copy of the charges be not served, or the arrested officer
 be not brought to trial, as herein required, the arrest shall cease. But officers
 released from arrest, under the provisions of this article, may be tried, when-
 ever the exigencies of the service shall permit, within twelve months after such
 release from arrest.

ART. 93. A court-martial shall, for reasonable cause, grant a continuance
 to either party for such time and as often as may appear to be just: *Provided*,
 That if the prisoner be in close confinement the trial shall not be delayed for a
 period longer than sixty days.

ART. 67. No provost marshal, or officer commanding a guard, shall refuse
 to receive or keep any prisoner committed to his charge by an officer belonging
 to the forces of the United States; provided the officer committing shall, at the
 same time, deliver an account in writing, signed by himself, of the crime charged
 against the prisoner.

1 "ART. 71. REPORT OF PRISONERS RECEIVED.-Every
 2 commander of a guard to whose charge a prisoner is com-
 3 mitted shall, within twenty-four hours after such confine-
 4 ment, or as soon as he is relieved from his guard, report in
 5 writing to the commanding officer the name of such prisoner,
 6 the offense charged against him, and the name of the officer
 7 committing him; and if he fails to make such report he shall
 8 be punished as a court-martial may direct.

9 "ART. 72. RELEASING PRISONER WITHOUT PROPER
 10 AUTHORITY.—Any person subject to military law who, with-
 11 out proper authority, releases any prisoner duly committed
 12 to his charge, or who through neglect or design suffers
 13 any prisoner so committed to escape, shall be punished as a
 14 court-martial may direct.

15 "ART. 73. DELIVERY OF OFFENDERS TO CIVIL AU-
 16 THORITIES. -When any person subject to military law, ex-
 17 cept one who is held by the military authorities to answer for
 18 a crime or offense punishable under these articles, is accused
 19 of a crime or offense committed within the geographical
 20 limits of the States of the Union and the District of Columbia
 21 and punishable by the laws of the land, the Commanding
 22 officer is required, except in time of war, upon application
 23 duly made, to use his utmost endeavor to deliver over such
 24 accused person to the civil authorities, or to aid the officers
 25 of justice in apprehending and securing him, in order that

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ART. 68. Every officer to whose charge a prisoner is committed shall, within twenty-four hours after such commitment, or as soon as he is relieved from his guard, report in writing, to the commanding officer, the name of such prisoner, the crime charged against him, and the name of the officer committing him; and if he fails to make such report, he shall be punished as a court-martial may direct.

ART. 69. Any officer who presumes, without proper authority, to release any prisoner committed to his charge, or suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

ART. 59. When any officer or soldier is accused of a capital crime, or of any offense against the person or property of any citizen of any of the United States, which is punishable by the laws of the land, the commanding officer, and the officers of the regiment, troop, battery, company, or detachment, to which the person so accused belongs, are required, except in time of war, upon application duly made by or in behalf of the party injured, to use their utmost endeavors to deliver him over to the civil magistrate, and to aid the officers of justice in apprehending and securing him, in order to bring him to trial. If, upon such application, any officer refuses or willfully neglects, except in time of war, to deliver over such accused person to the civil magistrates, or to aid the officers of justice in apprehending him, he shall be dismissed from the service.

1 he may be brought to trial. Any commanding officer who
 2 upon such application refuses or willfully neglects, except
 3 in time of war, to deliver over such accused person to the
 4 civil authorities or to aid the officers of justice in apprehend-
 5 ing and securing him, shall be dismissed from the service or
 6 suffer such other punishment as a court-martial may direct.

7 “E. WAR OFFENSES.

8 “ART. 74. MISBEHAVIOR BEFORE THE ENEMY.- Any
 9 officer or soldier who misbehaves himself before the enemy,
 10 runs away, or shamefully abandons or delivers up any fort,
 11 post, camp, guard, or other command, which it is his duty to
 12 defend, or speaks words inducing others to do the like, or casts
 13 away his arms or ammunition, or quits his post or colors to
 14 plunder or pillage, or by any means whatsoever occasions
 15 false alarms in camp, garrison, or quarters, shall suffer death
 16 or such other punishment as a court-martial may direct.

17 “ART. 75. SUBORDINATES COMPELLING COMMANDER
 18 TO SURRENDER.- If any commander of any garrison, fort,
 19 post, camp, guard, or other command, is compelled, by the
 20 officers or soldiers under his command, to give it up to the
 21 enemy or to abandon it, the officers or soldiers so offending
 22 shall suffer death or such other punishment as a court-martial
 23 may direct.

24 “ART. 76. IMPROPER USE OF COUNTERSIGN.- Any
 25 person subject to military law who makes known the parole

ART. 41. Any officer who, by any means whatsoever, occasions false alarms in camp, garrison, or quarters shall suffer death, or such other punishment as a court-martial may direct.

ART. 42. Any officer or soldier who misbehaves himself before the enemy, runs away, or shamefully abandons any fort, post, or guard, which he is commanded to defend, or speaks words inducing others to do the like; or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, shall suffer death, or such other punishment as a court-martial may direct.

ART. 43 If any commander of any garrison, fortress, or post is compelled, by the officers and soldiers under his command, to give up to the enemy or to abandon it, the officers or soldiers so offending shall suffer death, or such other punishment as a court-martial may direct.

ART. 44 Any person belonging to the armies of the United States who makes known the watchword to any person not entitled to receive it, according to the rules and discipline of war, or presumes to give a parole or watchword.

1 or countersign to any person not entitled to receive it accord-
 2 ing to the rules and discipline of war, or gives a parole or
 3 countersign different from that which he received, shall, if the
 4 offense be committed in time of war, suffer death or such
 5 other punishment as a courts-martial may direct.

6 “ART. 77. FORCING A SAFEGUARD. —Any person sub-
 7 ject to military law who, in time of war, forces a safeguard,
 8 shall suffer death or such other punishment as a court-martial
 9 may direct.

10 “ART. 78. CAPTURED PROPERTY TO BE SECURED FOR
 11 PUBLIC SERVICE.- All public property taken from the enemy
 12 is the property of the United States and shall be secured
 13 for the service of the United States, and any person subject
 14 to military law who neglects to secure such property or is
 15 guilty of wrongful appropriation thereof shall be punished
 16 as a court-martial may direct.

17 “ART. 79. DEALING IN CAPTURED OR ABANDONED
 18 PROPERTY . -Any person subject to military law who buys,
 19 sells, trades, or in any way deals in or disposes of captured
 20 or abandoned property, whereby he shall receive or expect
 21 any profit, benefit, or advantage to himself or to any other
 22 person directly or indirectly connected with himself, or who
 23 fails whenever such property comes into his possession or
 24 custody or within his control to give notice thereof to the
 25 proper authority and to turn over such property to the proper

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different from that which he received, shall suffer death, or such other punishment as a court-martial may direct.

ART. 57. Whosoever belonging to the armies of the United States in foreign parts or at any place within the United States or their Territories during rebellion against the supreme authority of the United States forces a safeguard shall suffer death.

ART. 9. All public stores taken from the enemy shall be secured for the service of the United States; and for neglect, thereof the commanding officer shall be answerable.

All persons in the military or naval service of the United States are prohibited from buying or selling, trading, or in any way dealing incaptured or abandoned property whereby they shall receive or expect any profit, benefit, or advantage to themselves or any other person, directly or indirectly connected with them, and it shall be the duty of such person, whenever such property comes into his possession or custody or within his control, to give notice thereof to some agent appointed by virtue of this Title and to turn the same over to such agent without delay. Any officer of the United States, civil, military, or naval, or any sutler, soldier, or marine, or other person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and shall be fined not more than five thousand dollars and imprisoned in the penitentiary not more than three years. Violations of this section shall be cognizable before any court, civil or military, competent to try the same. (Sec. 5313, R. S.)

1 authority without delay, shall on conviction thereof be pun-
 2 ished by fine or imprisonment, or by such other punishment
 3 as a court-martial, military commission, or other military
 4 tribunal may adjudge, or by any or all of said penalties.

5 “ART. 80. INTRODUCING GOODS INTO ENEMY TERRI-
 6 TORY.-- Any person who takes or causes to be taken into
 7 enemy territory, or to any other point to be thence taken
 8 into enemy territory; or

9 “Who transports or sells or otherwise disposes of therein,
 10 any goods, wares, or merchandise whatsoever, except in
 11 ppsuance of license and authority of the President as by
 12 law provided; or

13 “Who makes any false statement or representation upon
 14 which such license or authority is granted for such transpor-
 15 tation, sale, or other disposition; or

16 “Who under any license or authority willfully or know-
 17 ingly transports, sells, or otherwise disposes of any other
 18 goods, wares, or merchandise than such as are in good faith
 19 so licensed and authorized; or

20 “Who willfully or knowingly transports, sells, or dis-
 21 poses of the same or any portion thereof in violation of the
 22 terms of such license or authority, or in violation of any rule
 23 or regulation prescribed concerning the same; or

24 “Who keeps false accounts or makes false returns re-
 25 specting operations under such license or authority,

Every officer of the United States, civil, military, or naval, and every sutler, soldier, marine, or other person, who takes, or causes to be taken into a State declared to be in insurrection, or to any other point to be thence taken into such State, or who transports or sells, or otherwise disposes of therein, any goods, wares, or merchandise whatsoever, except in pursuance of license and authority of the President, as provided in this Title, or who makes any false statement or representation upon which license and authority is granted for such transportation, sale, or other disposition, or who, under any license or authority obtained, willfully and knowingly transports, sells, or otherwise disposes of any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or who willfully and knowingly transports, sells, or disposes of the same, or any portion thereof, in violation of the terms of such license or authority, or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same, or who is guilty of any act of embezzlement, of willful misappropriation of public or private money or property, of keeping false accounts, or of willfully making any false returns, shall be deemed guilty of a misdemeanor, and shall be fined not more than five thousand dollars, and mprisoned in the penitentiary not more than three years. Violations of this section shall be cognizable before any court, civil or military, competent to try the same. (Sec. 5306, R. S.)

1 "Shall, on conviction thereof, be punished by fine or
2 imprisonment, or by such other punishment as a court-
3 martial, military commission, or other military tribunal may
4 adjudge, or by any or all of said penalties.

5 "ART. 81. RELIEVING, CORRESPONDING WITH, OR
6 AIDING THE ENEMY.- Whosoever relieves the enemy with
7 arms, ammunition, supplies, money, or other thing, or know-
8 ingly harbors or protects or holds correspondence with or
9 gives intelligence to the enemy, either directly or indirectly,
10 shall suffer death, or such other punishment as a court-martial
11 or military commission may direct.

12 "ART. 82. SPIES.- Any person who in time of war
13 shall be found lurking or acting as a spy in or about any of
14 the fortifications, posts, quarters, or encampments of any of
15 the armies of the United States or elsewhere shall be tried
16 by a general court-martial or by a military commission, and
17 shall, on conviction thereof, suffer death.

18 "F. MISCELLANEOUS CRIMES AND OFFENSES.

19 "ART. 83. MILITARY PROPERTY-WILLFUL OR NEG-
20 LIGENT LOSS, DAMAGE, OR WRONGFUL DISPOSITION OF.-
21 Any person subject to military law who, willfully or through
22 neglect, suffers to be lost, spoiled, damaged, or wrongfully
23 disposed of any military property belonging to the United
24 States shall make good the loss or damage and suffer such
25 punishment as a court-martial may direct.

ART. 45. Whosoever relieves the enemy with money, victuals, or ammu-
nitions, or knowingly harbors or protects an enemy, shall suffer death, or
such other punishment as a court-martial may direct.

ART. 46. Whosoever holds correspondence with, or gives intelligence to,
the enemy, either directly or indirectly, shall suffer death, or such other pun-
ishment as a court-martial may direct.

All persons who, in time of war, or of rebellion against the supreme
authority of the United States, shall be found lurking or acting as spies in or
about any of the fortifications, posts, quarters, or encampments of any of the
armies of the United States, or elsewhere, shall be triable by a general court-
martial, or by a military commission, and shall, on conviction thereof, suffer
death. (Sec. 1343, Revised Statutes.)

ART. 15. Any officer who, willfully or through neglect, suffers to be lost,
spoiled, or damaged any military stores belonging to the United States, shall
make good the loss or damage, and be dismissed from the service.

1 “ART. 84. WASTE OR UNLAWFUL DISPOSITION OF
 2 MILITARY PROPERTY ISSUED TO SOLDIERS.— Any soldier
 3 who sells or wrongfully disposes of or willfully or through
 4 neglect injures or loses his horse, arms, ammunition, ac-
 5 couterments, equipment, clothing, or other property issued
 6 to him for use in the military service shall be punished as a
 7 court-martial may direct.

8 “ART. 85. DRUNK ON DUTY.—Any officer who is
 9 found drunk on duty shall, if the offense be committed in time
 10 of war, be dismissed from the service and suffer such other
 11 punishment as a court-martial may direct; and if the offense
 12 be committed in time of peace, be shall be punished as a
 13 court-martial may direct. Any person subject to military
 14 law, except an officer, who is found drunk on duty shall be
 15 punished as a court-martial may direct.

16 “ART. 86. MISBEHAVIOR OF SENTINEL.—Any senti-
 17 nel who is found drunk or sleeping upon his post, or who
 18 leaves it before he is regularly relieved, shall, if the offense
 19 be committed in time of war, suffer death or such other
 20 punishment as a court-martial may direct; and if the offense
 21 be committed in time of peace, he shall suffer any punish-
 22 ment, except death, that a court-martial may direct.

23 “ART. 87. PERSONAL INTEREST IN SALE OF PRO-
 24 VISIONS.— Any officer commanding in any garrison, fort,
 25 barracks, camp, or other place where troops of the United

ART. 16. Any enlisted man who sells, or willfully or through neglect, wastes the ammunition delivered out to him, shall be punished as a court-martial may direct.

ART. 17. Any soldier who sells or, through neglect, loses or spoils his horse, arms, clothing, or accouterments, shall be punished as a court-martial may adjudge, subject to such limitation as may be prescribed by the President by virtue of the power vested in him.

ART. 38. Any officer who is found drunk on his guard, party, or other duty shall be dismissed from the service. Any soldier who so offends shall, suffer such punishment as a court-martial may direct. No court-martial shall sentence any soldier to be branded, marked, or tattooed.

ART. 39. Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer death, or such other punishment as a court-martial may direct.

ART. 18. Any officer commanding in any garrison, fort, or barracks of the United States who, for his private advantage, lays any duty or imposition upon, or is interested in, the sale of any victuals, liquors, or other necessities of life brought into such garrison, fort, or barracks for the use of the soldiers, shall be dismissed from the service.

1 States may be serving, who, for his private advantage, lays
 2 any duty or imposition upon, or is interested in, the sale of
 3 any victuals or other necessities of life brought into such gar-
 4 rison, fort, barracks, camp, or other place for the use of the
 5 troops, shall be dismissed from the service and suffer such
 6 other punishment as a court-martial may direct.

7 “ART. 88. INTIMIDATION OF PERSONS BRINGING PRO -
 8 VISIONS.- Any person subject to military law who abuses,
 9 intimidates, does violence to, or wrongfully interferes with
 10 any person bringing provisions, supplies, or other necessities
 11 to the camp, garrison, or quarters of the forces of the United
 12 States shall suffer such punishment as a court-martial may
 13 direct.

14 “ART. 89. GOOD ORDER TO BE MAINTAINED AND
 15 WRONGS REDRESSED.- All persons subject to military law
 16 are to behave themselves orderly in quarters, garrison,
 17 camp, and on the march; and any person subject to military
 18 law who commits any waste or spoil, or willfully destroys
 19 any property whatsoever (unless by order of his command-
 20 ing officer), or commits any kind of depredation or riot,
 21 shall be punished as a court-martial may direct. And any
 22 commanding officer, who upon complaint made to him, re-
 23 fuses or omits to see reparation made to the party injured,
 24 in so far as the offender's pay shall go toward such repara-

ART. 56. Any officer or soldier who does violence to any person bringing provisions or other necessities to the camp, garrison, or quarters of the forces of the United States in foreign parts, shall suffer death, or such other punishment as a court-martial may direct.

ART. 54. Every officer commanding in quarters, garrison, or on the march, shall keep good order, and, to the utmost of his power, redress all abuses or disorders which may be committed by any officer or soldier under his command; and if, upon complaint made to him of officers or soldiers beating or otherwise illtreating any person, disturbing fairs or markets, or committing any kind of riot, to the disquieting of the citizens of the United States, he refuses or omits to see justice done to the offender, and reparation made to the party injured, so far as part of the offender's pay shall go toward such reparation, he shall be dismissed from the service, or otherwise punished, as a court-martial may direct.

ART. 55. All officers and soldiers are to behave themselves orderly in quarters and on the march; and whoever commits any waste or spoil, either in walks or trees, parks, warrens, fish ponds, houses, gardens, grain fields, inclosures, or meadows, or maliciously destroys any property whatsoever belonging to inhabitants of the United States (unless by order of a general officer commanding a separate army in the field), shall, besides such penalties as he may be liable to by law, be punished as a court-martial may direct.

1 tion, shall be dismissed from the service, or otherwise
2 .punished as a court-martial may direct.

3 “ART. 90. PROVOKING SPEECHES OR GESTURES. —No
4 person subject to military law shall use any reproachful
5 or provoking speeches or gestures to another; and any person
6 subject to military law who offends against the provisions
7 of this article shall be punished as a court-martial may
8 direct.

9 “ART. 91. DUELING.-Any officer or soldier who shall
10 engage in a duel or who shall send or accept a challenge
11 to fight a duel, or who shall act as a second or promoter
12 in any duel, or who shall upbraid another officer or soldier
13 for refusing such challenge, shall, if an officer, be dismissed
14 from the service, and if a soldier, be punished as a court-
15 martial may direct. And any officer or noncommissioned
16 officer who, knowing or having reason to believe that a
17 challenge has passed, shall intentionally fail and neglect to
18 take such action as is within his authority to prevent the
19 duel taking place shall be punished as a challenger.

20 “All officers and soldiers are hereby discharged from
21 any disgrace or opinion of disadvantage which might arise
22 from their having refused to accept challenges, as they will
23 only have acted in obedience to the law and have done their
24 duty as good soldiers who subject themselves to discipline.

ART. 25. No officer or soldier shall use any reproachful or provoking speeches or gestures to another. Any officer who so offends shall be put in arrest. Any soldier who so offends shall be confined and required to ask pardon of the party offended in the presence of his commanding officer.

ART. 26. No officer or soldier shall send a challenge to another officer or soldier to fight a duel, or accept a challenge so sent. Any officer who so offends shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court-martial may direct.

ART. 27. Any officer or noncommissioned officer, commanding a guard, who knowingly and willingly suffers any person to go forth to fight a duel shall be punished as a challenger; and all seconds or promoters of duels and carriers of challenges to fight duels shall be deemed principals, and punished accordingly. It shall be the duty of any officer commanding any army, regiment, troop, battery, company, post, or detachment, who knows or has reason to believe that a challenge has been given or accepted by any officer or enlisted man under his command, immediately to arrest the offender and bring him to trial.

ART. 28. Any officer or soldier who upbraids another officer or soldier for refusing a challenge shall himself be punished as a challenger; and all officers and soldiers are hereby discharged from any disgrace or opinion of disadvantage which might arise from their having refused to accept challenges, as they will only have acted in obedience to the law and have done their duty as good soldiers who subject themselves to discipline.

1 “ART. 92. MURDER; RAPE.— Any person subject to
2 military law who commits murder or rape shall suffer death
3 or imprisonment for life, as a court-martial may direct, but
4 no person shall be tried by court-martial for murder or
5 rape committed within the geographical limits of the States
6 of the Union and the District of Columbia in time of peace.

7 “ART. 93. VARIOUS CRIME— Any person subject to
8 military law who commits manslaughter, mayhem, arson,
9 burglary, robbery, larceny, embezzlement, perjury, assault
10 with intent to commit any felony, or assault with intent
11 to do bodily harm shall be punished as a court-martial may
12 direct.

13 “ART. 94. FRAUDS AGAINST THE GOVERNMENT.—
14 Any person subject to military law who makes or causes to
15 payment, any claim against the United States or any officer
16 thereof, knowing such claim to be false or fraudulent; or

17 “Who presents or causes to be presented to any per-
18 son in the civil or military service thereof, for approval or
19 payment, any claim against the United States or any officer
20 thereof, knowing such claim to be false or fraudulent; or

21 “Who enters into any agreement or conspiracy to de-
22 fraud the United States by obtaining, or aiding others to
23 obtain, the allowance or payment of any false or fraudulent
24 claim; or

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ART. 58. In time of war, insurrection, or rebellion, larceny, robbery, burglary, arson, mayhem, manslaughter, murder, assault and battery with an intent to kill, wounding, by shooting or stabbing, with an intent to commit murder, rape, or assault and battery with an intent to commit rape, shall be punishable by the sentence of a general court-martial, when committed by persons in the military service of the United States, and the punishment in any such case shall not be less than the punishment provided for the like offense by the laws of the State, Territory, or District in which such offense may have been committed.

ART. 62. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles of war, are to be taken cognizance of by a general, or a regimental, garrison, or field officers' court-martial, according to the nature and degree of the offense, and punished at the discretion of such court.

NOTE.—See also old article 58, opposite new article 92.

ART. 60. Any person in the military service of the United States who makes or causes to be made any claim against the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States or any officer thereof, knowing such claim to be false or fraudulent; or

Who enters into any agreement or conspiracy to defraud the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or against any officer thereof, makes or uses, or procures or advises the making or use of, any writing or other paper, knowing the same to contain any false or fraudulent statement; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, makes, or procures or advises the making of, any oath to any fact or to any writing or other paper, knowing such oath to be false; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of, any signature upon any writing or other paper, or uses, or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or

Who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States, furnished or intended for the military

1 “Who, for the purpose of obtaining, or aiding others to
 2 obtain, the approval, allowance, or payment of any claim
 3 against the United States or against any officer thereof,
 4 makes or uses, or procures, or advises the making or use of,
 5 any writing, or other paper, knowing the same to contain
 6 any false or fraudulent statement; or

7 “Who, for the purpose of obtaining, or aiding others to
 8 obtain, the approval, allowance, or payment of any claim
 9 against the United States or any officer thereof, makes, or
 10 procures, or advises the making of, any oath to any fact or
 11 to any writing or other paper, knowing such oath to be
 12 false; or

13 “Who, for the purpose of obtaining, or aiding others
 14 to obtain, the approval, allowance, or payment of any claim
 15 against the United States or any officer thereof, forges or
 16 counterfeits, or procures, or advises the forging or counter-
 17 feiting of any signature upon any writing or other paper,
 18 or uses, or procures, or advises the use of any such signa-
 19 ture, knowing the same to be forged or counterfeited; or

20 “Who, having charge, possession, custody, or control of
 21 any money or other property of the United States, furnished
 22 or intended for the military service thereof, knowingly de-
 23 livers, or causes to be delivered, to any person having au-
 24 thority to receive the same, any amount thereof less than
 25 that for which he receives a certificate or receipt; or

service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained, and with intent to defraud the United States; or

Who steals, embezzles, knowingly and willfully misappropriates, applies to his own use or benefit, or wrongfully, or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence stores, money, or other property of the United States, furnished or intended for the military service thereof; or

Who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any soldier, officer, or other person who is a part of or employed in said forces or service, any ordnance, arms, equipments, ammunition, clothing, subsistence stores, or other property of the United States, such soldier, officer, or other person not having lawful right to sell or pledge the same,

Shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial may adjudge, or by any or all of said penalties. And if any person, being guilty of any of the offenses aforesaid, while in the military service of the United States, receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial, in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

1 "Who, being authorized to make or deliver any paper
2 certifying the receipt of any property of the United States,
3 furnished or intended for the military service thereof, makes
4 or delivers to any person such writing, without having full
5 knowledge of the truth of the statements therein contained,
6 and with intent to defraud the United States; or

7 "Who steals, embezzles, knowingly and willfully mis-
8 appropriates, applies to his own use or benefit, or wrong-
9 fully or knowingly sells or disposes of any ordnance, arms,
10 equipments, ammunition, clothing, subsistence stores, money,
11 or other property of the United States furnished or intended
12 for the military service thereof; or

13 "Who knowingly purchases or receives in pledge for
14 any obligation or indebtedness from any soldier, officer, or
15 other person who is a part of or employed in said forces or
16 service any ordnance, arms, equipments, ammunition, cloth-
17 ing, subsistence stores, or other property of the United States,
18 such soldier, officer, or other person not having lawful right-
19 to sell or pledge the same;

20 "Shall, on conviction thereof, be punished by fine or
21 imprisonment, or by such other punishment as a court-
22 martial may adjudge, or by any or all of said penalties. And
23 if any person, being guilty of any of the offenses aforesaid
24 while in the military service of the United States, receives
25 his discharge or is dismissed from the service, he shall con-

1 tinue to be liable to be arrested and held for trial and sen-
 2 tence by a court-martial in the same manner and to the same
 3 extent as if he had not received such discharge nor been
 4 dismissed.

5 “ART. 95. CONDUCT UNBECOMING AN OFFICER AND
 6 GENTLEMAN.—Any officer or cadet who is convicted of
 7 conduct unbecoming an officer and gentleman shall be dis-
 8 missed from the service.

9 “ART. 96. GENERAL ARTICLE.— Though not men-
 10 tioned in these articles, all disorders and neglects to the
 11 prejudice of good order and military discipline, all conduct
 12 of a nature to bring discredit upon the military service, and
 13 all crimes or offenses not capital, of which persons subject to
 14 military law may be guilty, are to be taken cognizance of
 15 by a general or special or summary court-martial, according
 16 to the nature and degree of the offense, and punished at the
 17 discretion of such court.

18 “IV. COURTS OF INQUIRY.

19 “ART. 97. WHEN AND BY WHOM ORDERED.—A court
 20 of inquiry to examine into the nature of any transaction of,
 21 or ccusation or imputation against, any officer or soldier,
 22 may be ordered by the President or by any commanding
 23 officer; but a court of inquiry shall not be ordered by any
 24 commanding officer except upon the request of the officer
 25 or soldier whose conduct is to be inquired of.

ART. 61. Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

ART. 62. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing Articles of War, are to be taken cognizance of by a general, or a regimental garrison, or field officers' court-martial according to the nature and degree of the offense, and punished at the discretion of such court.

ART. 115. A court of inquiry, to examine into the nature of any transaction of, or accusation or imputation against, any officer or soldier, may be ordered by the President or by any commanding officer; but, as courts of inquiry may be perverted to dishonorable purposes and may be employed, in the hands of weak and envious commandants, as engines for the destruction of military merit they shall never be ordered by any commanding officer, except upon a demand by the officer or soldier whose conduct is to be inquired of.

1 “ART. 98. COMPOSITION.-A court of inquiry shall
2 consist of three or more offices. For each court of inquiry
3 the authority appointing the court shall appoint a recorder.

4 “ART. 99. CHALLENGES.-Members of a court of inquiry
5 may be challenged by the party whose conduct is being
6 inquired into, and by the recorder, but only for cause stated
7 to the court. The court shall determine the relevancy and
8 validity of any challenge and shall not receive a challenge to
9 more than one member at a time.

10 “ART. 100. OATH OF MEMBERS AND RECORDER. --
11 The recorder of a court of inquiry shall administer to the
12 members the following oath: ‘You, A B, do swear (or
13 affirm) that you will well and truly examine and inquire,
14 according to the evidence, into the matter now before you,
15 without partiality, favor, affection, prejudice, or hope of
16 reward. So help you God.’ After which the president of
17 the court shall administer to the recorder the following oath:
18 ‘You, A B, do swear (or affirm) that you will, according to
19 your best abilities, accurately and impartially record the pro-
20 ceedings of the court and the evidence to be given in the cas
21 in hearing. So help you God.’

22 “In case of affirmation the closing sentence of adjura-
23 tion will be omitted.

24 “ART. 101. POWERS;PROCEDURE.-A court of inquiry
25 and the recorder thereof shall have the same power to sum-

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ART. 116. A court of inquiry shall consist of one or more officers, not exceeding three, and a recorder, to reduce the proceedings and evidence to writing.

ART. 117. The recorder of a court of inquiry shall administer to the members the following oath: “You shall well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God.” After which the president of the court shall administer to the recorder the following oath: “You, A B, do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God.”

ART. 118. A court of inquiry, and the recorder thereof, shall have the same power to summon and examine witnesses as is given to courts-martial and the judge advocates thereof. Such witnesses shall take the same oath which is

mon and examine witnesses as is given to courts-martial and the trial judge advocate thereof. Such witnesses shall take the same oath or affirmation that is taken by witnesses before courts-martial. A reporter or an interpreter for a court of inquiry shall, before entering upon his duties, take the oath or affirmation required of a reporter or an interpreter for a court-martial. The party whose conduct is being inquired into shall be permitted to examine and cross-examine witnesses, so as fully to investigate the circumstances in question.

ART. 102. OPINION ON MERITS OF CASE.-A court of inquiry shall not give an opinion on the merits of the case inquired into unless specially ordered to do so.

"ART. 103. RECORD OF PROCEEDINGD - HOW AUTHENTICATED.- Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and the recorder thereof; and be forwarded to the convening authority. In case the record cannot be authenticated by the recorder, by reason of his death, disability, or absence, it shall be signed by the president and by one other member of the court.

"V. MISCELLANEOUS PROVISIONS.

"ART. 104. DISCIPLINARY POWERS OF COMMANDING OFFICERS.- Under such regulations as the president may prescribe, and which he may from time to time revoke,

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taken by witnesses before courts-martial, and the party accused shall be permitted to examine and cross-examine them, so as fully to investigate the circumstances in question.

ART. 119. A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

ART. 120. The proceedings of a court of inquiry must be authenticated by the signatures of the recorder and the president thereof, and delivered to the commanding officer.

1 alter, or add to, the commanding officer of any detachment,
 2 company, or higher command may, for minor offenses
 3 not denied by the accused, impose disciplinary punish-
 4 ments upon soldiers of his command without the interven-
 5 tion of a court-martial. The disciplinary punishments au-
 6 thorized by this article may include admonition, reprimand,
 7 withholding of privileges, extra fatigue, and restriction to
 8 certain specified limits, but shall not include forfeiture of pay
 9 or confinement under guard. A soldier punished under au-
 10 thority of this article who deems his punishment unjust or
 11 disproportionate to the offense, may, through the proper
 12 channel, appeal to the next superior authority, but may in
 13 the meantime be required to undergo the punishment ad-
 14 judged. The commanding officer who imposes the punish-
 15 ment, his successor in command, and superior authority shall
 16 have power to mitigate or remit any unexecuted portion of
 17 the punishment. No soldier shall suffer a disciplinary pun-
 18 ishment a second time for the same act or omission. The
 19 imposition and enforcement of disciplinary punishment under
 20 authority of this article for any act or omission shall not be a
 21 bar to trial by court-martial for a crime or offense growing
 22 out of the same act or omission; but the fact that a disci-
 23 plinary punishment has been enforced may be shown by the
 24 accused upon trial, and when so shown shall be considered

1 in determining the measure of punishment to be adjudged in
2 the event of a finding of guilty.

3 “ART. 105. INJURIES TO PERSON OR PROPERTY-
4 REDRESS OF .- Whenever complaint is made to any com-
5 manding officer that damage has been done to the property
6 of any person or that his property has been wrongfully taken
7 by persons subject to military law, such complaint shall be
8 investigated by a board consisting of any number of officers
9 from one to three, which board shall be convened by the
10 commanding officer and shall have, for the purpose of such
11 investigation, power to summon witnesses and examine
12 them upon oath or affirmation, to receive depositions or other
13 documentary evidence, and to assess the damages sustained
14 against the responsible parties. The assessment of damages
15 made by such board shall be subject to the approval of the
16 commanding officer, and in the amount approved by him
17 shall be stopped against the pay of the offenders. And the
18 order of such commanding officer directing stoppages herein
19 authorized shall be conclusive on any paymaster or other
20 disbursing officer for the payment by him to the injured
21 parties of the stoppages so ordered.

22 “Where the offenders can not be ascertained, but the
23 organization or detachment to which they belong is known,
24 stoppages to the amount of damages inflicted may be made
25 and assessed equally upon the individual members thereof

1 who are shown to have been present with such organization
 2 or detachment at the time the damages complained of were
 3 inflicted.

4 "ART. 106. ARREST OF DESERTERS BY CIVIL OF-
 5 FICIALS.- It shall be lawful for any civil officer having au-
 6 thority under the laws of the United States, or of any State,
 7 Territory, District, or possession of the United States to
 8 arrest offenders, summarily to arrest a deserter from the
 9 military service of the United States and deliver him into
 10 the custody of the military authorities of the United States.

11 "ART. 107. SOLDIERS TO MAKE GOOD TIME LOST.-
 12 Every soldier who deserts the service of the United States,
 13 or who without proper authority absents himself from his
 14 organization, station, or duty for more than one day, or who
 15 is confined for more than one day under sentence, or while
 16 awaiting trial and disposition of his case, if the trial results
 17 in conviction, or who through the intemperate use of drugs
 18 or alcoholic liquor, or through disease the result of his own
 19 misconduct, renders himself unable for more than one day to
 20 perform duty shall be liable to serve, after his return to a
 21 full duty status, for such period as shall, with the time he
 22 may have served prior to such desertion, unauthorized ab-
 23 sence, confinement, or inability to perform duty, amount to
 24 the full term to his enlistment,

That it shall be lawful for any civil officer having authority under the laws of the United States, or of any State, Territory, or District to arrest offenders, to summarily arrest a deserter from the military service of the United States, and deliver him into the custody of the military authority of the General Government. (Sec. 6, act of June 18, 1898; 30 Stat., 484.)

ART. 48. Every soldier who deserts the service of the United States shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

“ART. 108. SOLDIERS-SEPARATION FROM SERV-

ICE.- No soldier shall be discharged from the service of the United States without a certificate of discharge in writing signed by an officer having authority, under regulations prescribed by the President, to sign such certificate of discharge; and no certificate of discharge shall be issued to any soldier before the completion of his term of service, except pursuant to the sentence of a general court-martial or by order of the President, of the Secretary of War, or of an officer having authority under regulations prescribed by the President to issue such order: *Provided*, That no soldier shall, before the completion of his term of service, be discharged by order of the President, of the Secretary of War, or of any officer, unless such discharge be ordered in the interest of the United States or in pursuance of statutes now in force or which may hereafter be enacted.

“ART. 109. OATH OF ENLISTMENT.- At the time of

his enlistment every soldier shall take the following oath or affirmation: 'I, _____, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to the

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ART. 4. No enlisted man duly sworn shall be discharged from the service without a discharge in writing, signed by a field officer of the regiment to which he belongs, or by the commanding officer when no field officer is present; and no discharge shall be given to any enlisted man before his term of service has expired except by order of the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial.

That in time of peace the President may, in his discretion and under such rules and upon such conditions as he shall prescribe, permit any enlisted man to purchase his discharge from the Army. The purchase money to be paid under this section shall be paid to a paymaster of the Army and be deposited in the Treasury to the credit of one or more of the current appropriations for the support of the Army, to be indicated by the Secretary of War, and be available for the payment of expenses incurred during the fiscal year in which the discharge is made. (Sec. 4, act of June 16, 1890; 26 Stat., 158.)

* * * That in the event of the enlistment of a soldier in the Army for the period required by law, and after the expiration of one year of service should either of his parents die, leaving the other solely dependent upon the soldier for support, such soldier may, upon his own application, be honorably discharged from the service of the United States upon due proof being made of such condition to the Secretary of War. (Sec. 30, act of Feb. 2, 1901; 31 Stat., 756.)

ART. 2. These rules and articles shall be read to every enlisted man at the time of or within six days after his enlistment, and he shall thereupon take an oath or affirmation in the following form: "I, A. B., do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to the rules and articles of war." This oath may be taken before any commissioned officer of the Army.

1 Rules and Articles of War.’ This oath or affirmation may be
2 taken before any officer.

3 “ART. 110. CERTAIN ARTICLES TO BE READ AND
4 EXPLAINED.-Articles one, two, and twenty-nine, fifty-
5 two to ninety-six, inclusive, and one hundred and four to one
6 hundred and nine, inclusive, shall be read and explained to
7 every soldier at the time of his enlistment or muster in, or
8 within six days thereafter, and shall be read and explained
9 once in every six months to every garrison, regiment, or
10 company in the service of the United States.

11 “ART. 111. COPY OF RECORD OF TRIAL-Every person
12 son tried by a general court-martial shall, on demand there-
13 for, made by himself or by any person in his behalf, be en-
14 titled to a copy of the record of trial.

15 “ART. 112. EFFECTS OF DECEASED PERSONS-DISPO-
16 SITION OF.- In case of the death of any person subject to
17 military law, the commanding officer of the place or com-
18 mand will, if there be no legal representative or member
19 of the family of the deceased present to take possession
20 of his effects, designate and direct a summary court-martial
21 to take possession of and secure all of the effects of the
22 deceased in camp or in quarters. Said summary court-
23 martial shall at once prepare a complete inventory of the
24 effects coming into his possession, together with a statement
25 of the local debts and credits so far as known and in-

ART. 128. The foregoing articles shall be read and published, once in every six months, to every garrison, regiment, troop, or company in the service of the United States, and shall be duly observed and obeyed by all officers and soldiers in said service.

NOTE-See also old article 2, opposite new article 109.

ART. 114. Every party tried by a general court-martial shall, upon demand thereof made by himself or by any person in his behalf, be entitled to a copy of the proceedings and sentence of such court.

ART. 125. In case of the death of any officer, the major of his regiment, or the officer doing the major’s duty, or the second officer in command at any post or garrison, as the case may be, shall immediately secure all his effects then in camp or quarters, and shall make, and transmit to the office of the Department of War, an inventory thereof.

ART. 126. In case of the death of any soldier, the commanding officer of his troop, battery, or company shall immediately secure all his effects then in camp or quarters, and shall, in the presence of two other officers, make an inventory thereof, which he shall transmit to the office of the Department of War.

ART. 127. Officers charged with the care of the effects of deceased officers or soldiers shall account for and deliver the same, or the proceeds thereof, to the legal representatives of such deceased officers or soldiers. And no officer so charged shall be permitted to quit the regiment or post until he has deposited in the hands of the commanding officer all the effects of such deceased officers or soldiers not so accounted for and delivered.

1 formation as to name and residence of the widow of the
2 deceased, if any, or if he leave none, of his nearest relative
3 or relatives, and transmit a copy thereof to the War De-
4 partment. If there be no debts due local creditors, or on
5 payment of such debts, he may turn'over the effects to the
6 widow, or if none, to the nearest relative or relatives. If
7 this be impracticable, he may convert the effects into
8 cash, by public or private sale as he may deem best, and
9 collect any debts due the estate by local debtors, his receipt
10 therefor being a sufficient discharge, and after paying all
11 necessary expenses and such debts as he shall find are
12 justly due from the estate to local creditors who may
13 present their claims he shall, as soon as practicable after
14 thirty days from the death of the deceased, account for
15 and deliver all of the effects not sold, together with any
16 balance in cash, to the legal representative designated
17 in the will of the deceased, if there be any, or to the
18 legal representative appointed at his domicile, if he have
19 notice of the appointment of one. If there be no legal
20 representative, and if the amount involved be not greater
21 than two hundred dollars, he shall deliver all of the effects
22 which have not been sold, together with any balance in
23 cash, to claimants in the following order: First, widow;
24 second, children, in equal shares; third, father; fourth,

1 mother; fifth, brothers and sisters, in equal shares, any
2 children of a deceased child or brother or sister, to take his
3 or her share. If the amount involved be greater than two
4 hundred dollars, or of less amount, and he is unable to de-
5 termine clearly who is entitled, he shall convert the effects
6 into cash and deposit the net balance, after paying expenses
7 and creditors as herein authorized, with any paymaster of
8 the Army to the credit of the appropriation for pay of the
9 Army; and claim for the money so deposited and for pay
10 due the deceased shall be settled by the Auditor for the
11 War Department and paid from the appropriation for pay
12 of the Army for the fiscal year in which the settlement is
13 made. Upon completion of the administration he shall
14 make and transmit to the War Department a full report
15 of his action in the matter. If relieved as summary court
16 officer before completing the administration in any case,
17 he shall turn over to his successor all the effects of the de-
18 ceased for which he is accountable, together with a detailed
19 statement of his action in that case, and such successor shall
20 complete the administration and make the required report
21 to the War Department.

22 “No officer acting in good faith in conformity with the
23 provisions of this article shall be responsible for errors of
24 judgment in performing the duties herein imposed.

1 “The provisions of this article shall be applicable to
2 inmates of the United States Soldiers’ Home resident therein
3 or in United States military hospitals where they may be
4 sent for treatment.

5 “ART. 113. INQUESTS.-Whenever at any post, fort,
6 camp, or other place garrisoned by the military forces of
7 the United States and under the exclusive jurisdiction of the
8 United States, any person shall have been found dead under
9 circumstances which appear to require investigation, the
10 commanding officer will designate and direct a summary
11 court-martial to investigate the circumstances attending the
12 death; and, for this purpose, such summary court-martial
13 shall have power to summon witnesses and examine them
14 upon oath or affirmation. He shall promptly transmit to
15 the post or other commander a report of his investigation
16 and of his finding as to the cause of the death.

17 “ART. 114. AUTHORITY TO ADMINISTER OATHS.-
18 Any judge advocate or acting judge advocate, the president
19 of a general or special court-martial, any summary court-
20 martial, the judge advocate or any assistant judge-advocate
21 of a general or special court-martial, the president or the
22 recorder of a court of inquiry or of a military board, any
23 officer designated to take a deposition, any officer detailed
24 to conduct an investigation, and the adjutant of any com-
25 mand, shall have power to administer oaths for the purposes

That judge advocates of departments and of courts-martial and the trial officers of summary courts are hereby authorized to administer oaths for the purposes of the administration of military justice and for other purposes of military administration. (Sec. 4, act of July 27, 1892; 27 Stat., 278.)

Any officer or clerk of any of the departments lawfully detailed to investigate frauds on or attempts to defraud the Government, or any irregularity or misconduct of any officer or agent of the United States, and any officer of the Army, Navy, Marine Corps, or Revenue-Cutter Service detailed to conduct an investigation, and the recorder, and if there be none, the presiding officer, of any military, naval, or Revenue-Cutter Service board appointed for such purpose shall have authority to administer an oath to any witness attending to testify or depose in the course of such investigation. (Sec. 183, R. S.; 36 Stat., 898.)

1 of the administration of military justice and for other pur-
2 poses of military administration.

3 “ART. 115. POWERS OF ASSISTANT JUDGE ADVO-
4 CATES.—An assistant judge advocate of a general court-
5 martial shall be competent to perform any duty devolved
6 by law, regulation, or the custom of the service upon the
7 judge advocate of the court.

8 “ART. 116. REMOVAL OF CIVIL SUITS.--When any
9 civil suit is commenced in any court of a State against any
10 officer, soldier, or other person in the military service of
11 the United States, on account of any act done under color
12 of his office or status, or in respect to which he claims any
13 right, title, or authority under any law of the United States
14 respecting the military forces thereof, or under the law of
15 war, such suit may at any time before the trial or final hear-
16 ing thereof be removed for trial into the district court of
17 the United States in the district where the same is pending,
18 in the manner prescribed in section thirty-three of the Act
19 entitled ‘An Act to codify, revise, and amend the laws
20 relating to the judiciary,’ approved March third, nineteen
21 hundred and eleven, and the cause shall thereupon be entered
22 on the docket of said district court and shall proceed therein
23 as if the cause had been originally commenced in said dis-
24 trict court and the same proceedings had been taken in such
25 suit in said district court as shall have been had therein in

When any civil suit or criminal prosecution is commenced in any court of a State against any officer appointed under or acting by authority of any revenue law of the United States now or hereafter enacted, or against any person acting under or by authority of any such officer, on account of any act done under color of his office or of any such law, or on account of any right, title, or authority claimed by such officer or other person under any such law; or is commenced against any person holding property or estate by title derived from any such officer, and affects the validity of any such revenue law; or when any suit is commenced against any person for on account of anything done by him while an officer of either House of Congress in the discharge of his official duty, in executing any order of such House, the said suit or prosecution may, at any time before the trial or final hearing thereof, be removed for trial into the district court next to be holden in the district where the same is pending, upon the petition of such defendant to said district court, and in the following manner: said petition shall set forth the nature of the suit or prosecution and be verified by affidavit, and, together with a certificate signed by an attorney or counselor at law of some court of record of the State where such suit or prosecution is commenced, or of the United States, stating that, as counsel for the petitioner, he has examined the proceedings against him and carefully inquired into all the matters set forth in the petition, and that he believes them to be true, shall be presented to the said district court, if in session, or if it be not, to the clerk thereof at his office, and shall be filed in said office. The cause shall thereupon be entered on the docket of the district court, and shall proceed as a cause originally commenced in that court; but all bail and other security given upon such suit or prosecution shall continue in like force and effect as if the same had proceeded to final judgment and execution in the State court. When the suit is commenced in the State court by summons, subpoena, petition, or other process except capias, the clerk of the district court shall issue a writ of certiorari to the State court, requiring it to send to the district court the record and proceedings in the cause. When it is commenced by capias or by any other similar form or proceeding by which a personal arrest is ordered, he shall issue a writ of habeas corpus cum causa, a duplicate of which shall be delivered to the clerk of the State court, or left at his office, by the marshal of the district or his deputy, or by some person duly authorized thereto; and thereupon it shall be the duty of the State court to stay all further proceedings in the cause, and the suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be held to be removed to the district court, and any further proceedings, trial, or judgment therein in the State court shall be void. If the defendant in the suit or prosecution be in actual custody on mesne process therein, it shall be the duty of the marshal, by virtue of the writ of habeas corpus cum causa, to take the body of the defendant into his custody, to be dealt with in the cause according to law and the order of the district court, or, in vacation, of any judge thereof; and if, upon the removal of such suit or prosecution, it is made to appear to the district court that no copy of the record and proceedings therein in the State court can be obtained, the district court may allow and require the plaintiff to proceed

1 said State court prior to its removal; and said district court
2 shall have full power to hear and determine said cause.

3 "ART. 117. OFFICERS--SEPARATION FROM SERVICE.-

4 No officer shall be discharged or dismissed from the service
5 except by order of the President or by sentence of a general
6 court-martial; and in time of peace no officer shall be dis-
7 missed except in pursuance of the sentence of a court-martial
8 or in mitigation thereof, nor discharged except in pursuance
9 of statutes now in force or which may hereafter be enacted;
10 but the President may at any time drop from the rolls of
11 the Army any officer who has been absent from duty three
12 months without leave or who has been absent in confine-
13 ment in a prison or penitentiary for three months after final
14 conviction by a court of competent jurisdiction.

15 "ART. 118. RANK AND PRECEDENCE AMONG REGU-
16 LARS, MILITIA, AND VOLUNTEERS.-Officers of the same
17 grade shall rank and have precedence in the following order,
18 without regard to date of rank or commission as between
19 officers of different classes, namely: First, officers of the
20 Regular Army and officers of the Marine Corps detached
21 for service with the Army by order of the President; second,
22 officers of the Organized Militia in the service of the United
23 States; and, third, officers of the Volunteer Forces : *Provided*,
24 That officers of the Regular Army holding commissions in
25 the Organized Militia in the service of the United States or

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de novo and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said district court. On failure of the plaintiff so to proceed, judgment of non prosequitur may be rendered against him, with costs for the defendant. (Sec. 33, act of Mar. 3, 1911; 36 Stat., 1097.)

ART. 99. No officer shall be discharged or dismissed from the service, except by order of the President or by sentence of a general court-martial; and in time of peace no officer shall be dismissed, except in pursuance of the sentence of a court-martial or in mitigation thereof.

The President is authorized to drop from the rolls of the Army for desertion any officer who is absent from duty three months without leave; and no officer so dropped shall be eligible for reappointment. And no officer in the military or naval service shall in time of peace be dismissed from service, except upon and in pursuance of the sentence of a court-martial to that effect, or in commutation thereof. (Sec. 1229, R. S.)

That the President be, and he is hereby, authorized to drop from the rolls of the Army any officer who is absent from duty three months without leave or who has been absent in confinement in a prison or penitentiary for more than three months after final conviction by a civil court of competent jurisdiction; and no officer so dropped shall be eligible for reappointment. (Act of Jan. 19, 1911; 36 Stat., 894.)

ART. 124. Officers of the Organized Militia of the several States, when called into the service of the United States, shall on all detachments, courts-martial, and other duty, wherein they may be employed in conjunction with the regular or volunteer forces of the United States, take rank next after all officers of the like grade in said regular forces, and shall take precedences of all officers of Volunteers of equal or inferior rank, notwithstanding the commissions of such militia officers may be older than the commissions of the said officers of the regular forces of the United States.

1 in the Volunteer Forces shall rank and have precedence
 2 under said commissions as if they were commissions in the
 3 Regular Army; but the rank of officers of the Regular Army
 4 under their commissions in the Organized Militia shall not,
 5 for the purposes of this article, be held to antedate muster
 6 into the service of the United States.

7 “ART. 119. COMMAND WHEN DIFFERENT CORPS OR
 8 COMMANDS HAPPEN TO JOIN.-When different corps or
 9 commands of the military forces of the United States happen
 10 to join or do duty together, the officer highest in rank of the
 11 line of the Regular Army, Marine Corps, Organized Militia,
 12 or Volunteers, there on duty, shall, subject to the provisions
 13 of the preceding article, command the whole and give orders
 14 for what is needful in the service, unless otherwise directed
 15 by the President.”

16 SEC. 2. The following sections of the Revised Statutes
 17 and the following Acts and parts of Acts are hereby re-
 18 pealed:

19 (a) Sections twelve hundred and two and thirteen
 20 hundred and twenty-six of the Revised Statutes;

21 (b) That part of an Act entitled “An Act making ap-
 22 propriations for the legislative, executive, and judicial ex-
 23 penses of the Government for the year ending June thirtieth,
 24 eighteen hundred and seventy-eight, and for other purposes,”

ART. 122. If, upon marches, guards, or in quarters, different corps of the Army happen to join or do duty together, the officer highest in rank of the line of the Army, Marine Corps, Organized Militia or Volunteers, by commission, there on duty or in quarters, shall command the whole, and give orders for what is needful in the service, unless otherwise specially directed by the President, according to the nature of the case.

1 approved March third, eighteen hundred and seventy-seven,
2 which reads as follows:

3 “*Provided, however,* That hereafter the records of regi-
4 mental, garrison, and field officers and courts-martial shall,
5 after having been acted upon, be retained and filed in the
6 judge advocate’s office at the headquarters of the depart-
7 ment commander in whose department the courts were held
8 for two years, at the end of which time they may be de-
9 stroyed.”

10 (c) Section three of an Act entitled “An Act to amend
11 the Articles of War, and for other purposes,” approved July
12 twenty-seventh, eighteen hundred and ninety-two;

13 (d) Sections one and four of an Act entitled “An Act
14 to amend an Act entitled ‘An Act to promote the administra-
15 tion of justice in the Army,’ approved October first, eighteen
16 hundred and ninety, and for other purposes,” approved June
17 eighteenth, eighteen hundred and ninety-eight;

18 (e) Section one of an Act entitled “An Act to prevent
19 the failure of military justice, and for other purposes,” ap-
20 proved March second, nineteen hundred and one;

21 (f) Section eight of an Act entitled “An Act to pro-
22 mote the efficiency of the militia, and for other purposes,”
23 approved January twenty-first, nineteen hundred and three,
24 as amended by section six of an Act entitled “An Act to
25 further amend the Act entitled ‘An Act to promote the

1 efficiency of the militia, and for other purposes, approved
 2 January twenty-first, nineteen hundred and three,” ap-
 3 proved May twenty-seventh, nineteen hundred and eight.

4 Also all other sections and parts of sections of the Re-
 5 vised Statutes and Acts and parts of Acts in so far as they
 6 are inconsistent with the provisions of this Act are hereby
 7 repealed.

8 SEC. 3. That all offenses committed and all penalties, for-
 9 feitures, fines, or liabilities incurred prior to the taking effect
 10 of this Act, under any law embraced in or modified, changed,
 11 or repealed by this Act, may be prosecuted, punished, and
 12 enforced in the same manner and with the same effect as if
 13 this Act had not been passed.

14 SEC. 4. That this Act shall take effect six months after
 15 the date of approval thereof.

OLD ARTICLES OF WAR OMITTED FROM THE PROPOSED REVISION.

ARTICLE 1. Every officer now in the Army of the United States shall, within six months from the passing of this act, and every officer hereafter appointed shall, before he enters upon the duties of his office, subscribe these rules and articles.

ART. 10. Every officer commanding a troop, battery, or company is charged with the arms, accouterments, ammunition, clothing, or other military stores belonging to his command, and is accountable to his colonel in case of their being lost, spoiled, or damaged otherwise than by unavoidable accident, or on actual service.

ART. 11. Every officer commanding a regiment or an independent troop, battery, or company, not in the field, may, when actually quartered with such command, grant furloughs to the enlisted men in such numbers and for such time as he shall deem consistent with the good of the service. Every officer commanding a regiment, or an independent troop, battery, or company, in the field, may grant furloughs not exceeding thirty days at one time, to five per centum of the enlisted men, for good conduct in the line of duty, but subject to the approval of the commander of the forces of which said enlisted men form a part. Every company officer of a regiment, commanding any troop, battery, or company not in the field, or commanding in any garrison, fort, post, or barrack, may, in the absence of his field officer, grant furloughs to the enlisted men for a time not exceeding twenty days in six months, and not to more than two persons to be absent at the same time.

ART. 12. At every muster of a regiment, troop, battery, or company the commanding officer thereof shall give to the mustering officer certificates, signed by himself, stating how long absent officers have been absent and the reasons of their absence. And the commanding officer of every troop, battery, or company shall give like certificates, stating how long absent noncommissioned officers and private soldiers have been absent and the reasons of their absence. Such reasons and time of absence shall be inserted in the muster rolls opposite the names of the respective absent officers and soldiers, and the certificates, together with the muster rolls, shall be transmitted by the mustering officer to the Department of War as speedily as the distance of the place and muster will admit.

ART. 29. Any officer who thinks himself wronged by the commanding officer of his regiment, and, upon due application to such commander, is refused redress, may complain to the general commanding in the State or Territory where such regiment is stationed. The general shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, transmit to the Department of War a true statement of such complaint, with the proceedings had thereon.

ART. 30. Any soldier who thinks himself wronged by any officer may complain to the commanding officer of his regiment, who shall summon a regimental court-martial for the doing of justice to the complainant. Either party may appeal from such regimental court-martial to a general court-martial; but if, upon such second hearing, the appeal appears to be groundless and vexatious, the party appealing shall be punished at the discretion of said general court-martial.

ART. 36. No soldier belonging to any regiment, troop, battery, or company shall hire another to do his duty for him, or be excused from duty, except in cases of sickness, disability, or leave of absence. Every such soldier found guilty of hiring his duty, and the person so hired to do another's duty, shall be punished as a court-martial may direct.

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ART. 37. Every noncommissioned officer who connives at such hiring of duty shall be reduced. Every officer who knows and allows such practices shall be punished as a court-martial may direct.

ART. 52. It is earnestly recommended to all officers and soldiers diligently to attend divine service. Any officer who behaves indecently or irreverently at any place of divine worship shall be brought before a general court-martial, there to be publicly and severely reprimanded by the president thereof. Any soldier who so offends shall, for his first offense, forfeit one-sixth of a dollar; for each further offense he shall forfeit a like sum, and shall be confined 24 hours. The money so forfeited shall be deducted from his next pay; and shall be applied, by the captain or senior officer of his troop, battery, or company, to the use of the sick soldiers of the same.

ART. 53. Any officer who uses any-profane oath or execration shall, for each offense, forfeit and pay \$1. Any soldier who so offends shall incur the penalties provided in the preceding article; and all moneys forfeited for such offenses shall be applied as therein provided.

ART. 76. When the requisite number of officers to form a general court-martial is not present in any post or detachment, the commanding officer shall, in cases which require the cognizance of such a court, report to the commanding officer of the department, who shall thereupon order a court to be assembled at the nearest post or department at which there may be such a requisite number of officers, and shall order the party accused, with necessary witnesses, to be transported to the place where the said court shall be assembled.

ART. 87. All members of a court-martial are to behave with decency and calmness.

ART. 101. When a court-martial suspends an officer from command it may also suspend his pay and emoluments for the same time, according to the nature of his offense.

Memorandum showing new numbers of old articles.

Present No.	New No.	Present No.	New No.	Present No.	New No.
1	.....	43	75	85	19
2	109,110	44	76	86	33
3	53	45	81	87	-----
4	108	46	81	88	18
5	55	47	57	89	21
6	55	48	107	90	17
7	56	49	28	91	25
8	56	50	29,39	92	23
9	78	51	58	93	20,69
10	.....	52	-----	95	32
11	.....	53	-----	96	44
12	.....	54	89	97	43
13	55	55	89	98	42
14	55	56	88	99	117
15	83	57	77	100	45
16	84	58	92,93	101	.....
17	84	59	73	102	41
18	87	60	2,94	103	40
19	61	61	95	104	47
20	62	62	93,96	105	48
21	63	63	2	106	48
22	65	64	2	107	48
23	66	65	68	108	48
24	67	66	68	109	47
25	90	67	70	111	51
26	91	68	71	112	49,50
27	91	69	72	113	36
28	91	70	69	114	111
29	.....	71	69	115	97
30	.....	72	8	116	98
31	60	73	8	117	100
32	60	74	11	118	101
33	60	75	5	119	102
34	60	76	-----	120	103
35	60	77	4	121	37
36	.....	78	2,4	122	119
37	.....	79	16	124	118
38	85	81	6,9,13,14	125	112
39	86	82	6,9,13,14	126	112
40	60	83	13,14	127	112
41	74	84	19	128	110
42	74				